



# MIAMI BEACH

## City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
December 7, 2005

Mayor David Dermer  
Vice-Mayor Richard L. Steinberg  
Commissioner Matti Herrera Bower  
Commissioner Simon Cruz  
Commissioner Luis R. Garcia, Jr.  
Commissioner Saul Gross  
Commissioner Jerry Libbin

City Manager Jorge M. Gonzalez  
City Attorney Murray H. Dubbin  
City Clerk Robert E. Parcher

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### ATTENTION ALL LOBBYISTS

**Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.**

*Special note: In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to the alternate meeting date which will only be held if needed. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.*

- PA1 Recognition of City Employees who are Veteran's or Currently Serving in the Armed Forces.
- PA2 Certificates of Appreciation/Employee of the Month - Sept., Oct., Nov. & Dec. 2005.
- PA3 Certificates of Appreciation/Budget Advisory Committee, Efforts in Budget Process.
- PA4 Certificates of Appreciation/City of Miami Beach, GFOA Award for FY 2004/05 Adopted Budget.
- PA5 Certificate of Appreciation/Jeff Donnelly, Years of Service on Miami-Dade Library Advisory Board.
- PA6 Certificate of Achievement/Catherine Escano, Winner of the Vote MB Essay Contest. (Steinberg)
- PA7 **New Item:** Proclamation Presentation to Art Miami (Bower).
- PA8 **New Item:** Certificate of Appreciation/Hands on Miami, S. Shore Community Center. (Bower)
- PA9 **New Item:** Certificate of Appreciation/UNIDAD, S. Shore Community Center. (Bower)
- PA10 **New Item:** Certificate of Appreciation/Property Mgmt. Dept., S. Shore Community Center. (Bower)
- PA11 **New Item:** Certificate of Appreciation/Leslie Collar, Finding City's Unclaimed Taxes. (Garcia)
- PA12 **New Item:** Certificate of Appreciation/Parks & Recreation Dept., S. Shore Community Ctr. (Bower)
  
- C2A BA 04-05/06, Purchase & Install Telephone & Fiber Optic Communications Cable, \$90,000.
- C2B BA 82-98/99, Extend the Grounds Maintenance Service Contract.
- C2C BA 23-04/05, Purchase Asphaltic Concrete/Related Materials for Sidewalk Construction.
- C2D Issue RFQ, Engineering & Construction Management Services of the Beachwalk II.
  
- C6A Report: G.O. Bond Oversight Committee Meeting on October 10, 2005.
- C6B Report: Finance & Citywide Projects Committee Meeting on October 12, 2005.
- C6C Report: G.O. Bond Oversight Committee Meeting on November 7, 2005.
- C6D Report: Finance & Citywide Projects Committee Meeting on November 10, 2005.
- C6E Report: Joint Land Use & Dev. & Neigh./Comm. Affairs Committee on November 14, 2005.

- C7A Approve Appropriation of Funds, Pay CMB's 2005 Real Estate Property Taxes.
- C7B Accept Recommendation, Professional Building Inspection & Plans Review Services.
- C7C Execute Amendment, Construction Completion of a New Fire Station No. 4 (MC Harry).
- C7D Execute Amendment, Normandy Isle Park & Pool Facility Project Construction (URS).
- C7E Acknowledge Merger Between EDAW, Inc. & AECOM Technology Corporation, Inc.
- C7F Execute Amendment, Master Plan: Scott Rakow, Flamingo & Normandy Park (Corradino).
- C7G Payment of Legal Expenses in Defense of Commissioner Gross (Club Madonna).
- C7H Execute Covenant in Lieu of Unity of Title for CMB and New World Symphony, Inc.
- C7I Reappoint Zoila Datorre & Appoint Ana Kasdin to the M-DC Library Advisory Board.
- C7J Approve Amendment to Interlocal Agreement, Library Services for Residents of CMB.
- C7K Approve Cooperative Purchase Agreement, Qualifying Law Enforcement Equipment.
- C7L Submit Applications for Grant Funds to Several Funding Agencies.
- C7M Accept Recommendation, Provide Testing Services/Programs for Police & Fire.
- C7N Appropriate Funds, Support the 2005/06 New Year's Celebration.
- C7O Execute Home Program Agmt w/ MBCDC, Rental Units for Income-Eligible Participants.
- C7P Execute Home Program Agreement w/ MBCDC, Down Payment Assistance.
- C7Q Execute SHIP Program Agreement w/ MBCDC, Workforce Housing Rehabilitation.
- C7R Execute Service Agmt, Testing Citywide Wayfinding Signage for Futura Typeface Visibility.
- C7S Execute Memorandum of Understanding, Jail Inmate Locator Service.
- C7T Execute Service Agreement, Criminal Prosecution of Local Code & Ordinance Violations.
- C7U Appropriate Funds, Complete Remediation Activities at Bayshore & Normandy Golf Course.
- C7V Ratify Contract, Pressure Cleaning, Waterproofing, & Painting Services at Police Dept.
- C7W Waive Competitive Bidding, FY 2005/06 Capital Renewal & Replacement Projects. **5/7**
- C7X Execute Interlocal Agreement w/ MDT, Conduct a Coastal Communities Transit Study.
- C7Y Appoint Jorge E. Chartrand as Capital Improvement Projects Director.
- C7Z Appointment of Chief Special Master.
- C7AA Approve Purchase of All Risk Property Insurance for the Bass Museum of Art.
- C7BB Accept RFP, Provide Pilot Network(s) Management/Testing/Project Management Services.

### REGULAR AGENDA

- R5A **10:15 a.m. 2<sup>nd</sup> Rdg**, Committee for Quality Education in Miami Beach Schools. (Bower)
- R5B **10:30 a.m. 2<sup>nd</sup> Rdg**, Off-Street Parking Requirement for Residential Uses. **5/7**
- R5C **5:15 p.m. 1<sup>st</sup> Rdg**, Noise Ordinance Amendment.
- R5D **5:45 p.m. 1<sup>st</sup> Rdg**, Dev. Regs., Single-Family Lots Abutting GC-Golf Course District. **5/7**
- R5E **1<sup>st</sup> Rdg**, DRB Scope & Exemptions. **5/7**
- R5F **1<sup>st</sup> Rdg**, Parking Pedestal Design Requirements. **5/7**
- R5G **1<sup>st</sup> Rdg**, Amend 1605 Unclassified Employees Salary Ordinance.
- R5H **1<sup>st</sup> Rdg**, Amend the Name of "The Barrier-Free Environment Committee."
  
- R7A **10:20 a.m.** Approve Vacation of (2) Remaining Public Alleys - 420 Lincoln Road Project. **5/7**
- R7B **5:01 p.m.** Approve MB Convention Center as a Venue for Adult Materials Events. **5/7**
- R7C **Joint**, Set Dates for the Year 2006 City Commission Meetings.
- R7D Approve the City's State Legislative Agenda for 2006.
- R7E **6:00 p.m.** Accept RFP, Design/Deployment/Management, Citywide Wireless Network (WiFi).
  
- R9A Board and Committee Appointments.
- R9B1 **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
- R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
- R9C Discuss Extending Alcohol Serving Hours on New Years Eve. (Garcia/Bower)
- R9D **11:30 a.m.** Accept Recommendation, Resolve the Remaining Impasse Items with CWA.
- R9E **W-Discuss** Unsafe Pedestrian Crosswalks on West Avenue. (Bower)
- R9F Discuss Establishing a Moratorium on Driving Vehicles on the Beach. (Bower)
- R9G Report & Discuss the Uses & Types of City Vehicles on our Beaches. (Dermer)
- R9H **4:30 p.m.** Discuss Creation of a Task Force Committee for Condo Reform Items.
- R9I **6:01 p.m.** Discuss Down Zoning of Flamingo Park/Reduce Building Heights-Ocean Front Lots.
- R9J Nightlife Industry Task Force - Extension of Hours for December 31 - January 1, 2006.
- R9K Discuss Creation of a Hurricane Task Force. (Steinberg)
- R9L **11:00 a.m.** Disc. Allowing Establishment w/ License to Present Nude Entertainment.(Garcia)

R9M **10:45 a.m.** Discuss Status of the Convention Center Expansion. (Garcia)

R10A **Noon**, Notice of Attorney - Client Session: Frank Otero v. CMB, La Gorce & DM Fence Corp.

- A City Attorney's Status Report.
- B Parking Status Report.
- C Status Report on Fire Station No. 2.
- D Status Report on Fire Station No. 4.
- E Informational Report on Federal, State, County and All Existing City Contracts.
- F1 Minutes from the PACT Board Meeting on September 13, 2005. (Bower)

**REDEVELOPMENT AGENCY ITEMS - 10:00 A.M.**

- 2A Report of Itemized Revenues & Expenditures of RDA for September 2005.
- 2B Report of Itemized Revenues & Expenditures of RDA for October 2005.
- 3A **Joint**, Set Dates for the Year 2006 RDA Meetings.
- 3B Amend the Operating Budget for the City Center Redevelopment Area for FY 2005/06.

Meeting called to order at 9:30:18 a.m.

Invocation given by Rabbi Solomon Schiff from The Jewish Federation.

Pledge of Allegiance led by Chief De Lucca.

**Times based on the digital recording in the City Clerk's Office**

**Supplemental Materials: Additional Information/Resolution**

C7I - Resolution, C7O - Resolution, C7P - Resolution, R5B - Ordinance, R5C - Ordinance, R5D - Ordinance, R5G - Revised Ordinance, R5H - Ordinance, R7B - Resolution, and R9D - Additional Information.

Mayor Dermer welcomed Commissioner Jerry Libbin.

Commissioner Garcia stated that he did not have a chance to congratulate Vice-Mayor Steinberg and Commissioner Gross on their re-elections. He stated that he will miss Commissioner Gross sitting next to him; he also said that he is happy that Vice-Mayor Steinberg proved him wrong four years ago. He welcomed Commissioner Libbin and stated that they should all work together for the next two years.

Bonnie Patchen presented the City Commission with her traditional rum cake.

**10:13:04 a.m.**

**New item:**

Murray Dubbin, City Attorney, stated that Pursuant To Section 286.011(8), Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation:

Frank Otero V. City Of Miami Beach, Florida, La Gorce Country Club, Inc. And DM Fence Corporation. The Circuit Court Of The Eleventh Judicial Circuit In And For Miami-Dade County, Florida, Case No. 05-17754 CA 04- LEESFIELD.

Motion made by Commissioner Gross; seconded by Commissioner Garcia and approved without objection.

**Presentations and Awards****9:35:46 a.m.**

PA1 Recognition Of City Employees Who Are Veterans Or Are Currently Serving In The Armed Forces.  
(City Manager's Office)

**ACTION:** Recognition made.

Jorge Gonzalez, City Manager, explained that since there were no Commission Meetings in November to formally recognize, on Veteran's Day, those employees who are serving or have served in the armed forces, he wanted to take this opportunity to thank them for their contribution to this Country. He recognized the following employees: Abraham Alva, Property Management, Alex Anzorandia, Ocean Rescue, Fred Beckmann, Public Works, John Babcock, Police, (currently serving); Emmanuel Bastos, Code Compliance, Francois Betancourt, Fire, George Castell, Code Compliance, Daniel Cavanaugh, Ocean Rescue, Michael Coakley, Code Compliance, (currently serving), Kevin Crowder, Economic Development, Gerald Cunningham, IT, Neuton Ferreira, Code Compliance, Nate Frazer, Central Services, Ron Francis, Communications, Bob Halfhill, Public Works, Judy Hernandez, City Manager's Office, Bob Jones, Code Compliance, Floyd Jordan, Fire, Bruce Lamberto, Property Management, John Di Censo, Police, Gus Lopez, Procurement, Richard Martinez, Parks and Recreation, Ray Martinez, Police, Javier Matias, Police (recently returned from overseas); Dwayne Mitchell, Police, Daniel Nunez, Property Management, Javier Otero, Fire, (recently returned from Iraq), Tommy Otis, Property Management, Robert Parcher, City Clerk, Kenny Patterson, Procurement, Julian Perez, Public Works, Maxine Reyes, Human Resources, (called to active duty and will go again next month), Michael Reyes, Labor Relations, Alexis Rodriguez, Public Works, Charles Rodriguez, Police, Victor Rybalka, Police, (recently returned from active duty), Charles Taft, Planning, Joseph Taylor, Fire, (also recently returned); John Toledo, Emmanuel Toribio, Public Works, Gilbert Santiago, Fire, Lonnie Spears, Property Management, Brian Thorpe, Fire, Keith Valles, Central Services and Eric Yuhr, Fire. These individuals are either currently serving or have served our Country admirably and he saluted them and this community is proud of their efforts.

Mayor Dermer asked the audience to give them a standing ovation and added that their efforts, sacrifice, and hard work are appreciated.

Commissioner Libbin acknowledged that this past Sunday "Sand in Our Boots 2005," the 7<sup>th</sup> Annual WWII Miami Beach Veterans Reunion and Recognition Event, was held on Ocean Beach, under the coordination of Dr. Judi Berson-Levinson, and it was excellent.

Commissioner Garcia recognized Bruce Lamberto for his participation on this project along with Dr. Berson-Levinson.

**10:07:43 a.m.**

PA2 Certificates Of Appreciation To Be Presented To Employee Of The Month "At Your Service Award" Winners For The Months Of September, October, ~~And~~ November, and December 2005.  
(City Manager's Office)

**ACTION:** Certificates presented to: Alfredo Perez, Terrance Grayer, Jose Alberto, Manny Villar, Jimmy McMillion, Nick D'Amato, Fernando Marcial, Buck Jones, Neuton Ferreira, Rianne Thomas, George Castell, Philip Whitehead and Greg Del Favero.

Jorge Gonzalez, City Manager, explained that for the months of October through December, a group of employees were selected for their volunteer efforts.

Jimmy Mazer, Neighborhood Services Department, Code Compliance Director, stated that in early July, different divisions in the Neighborhood Services Department started discussing opportunities for Volunteer Miami Beach Week 2005, and Manny Villar suggested painting the house of a deserving Miami Beach resident. After permits were obtained the work began on September 9<sup>th</sup>. During the next three days, they pressure cleaned, scraped, patched, caulked, primed, and painted the house, transforming a single family home which was in serious need of paint into a residence that looked like new. The homeowner was extremely appreciative. He expressed his pride in those members of Code Compliance who volunteered their own time to accomplish this and for giving back to the community. He thanked the Building Department and Brad Judd for their assistance.

**9:45:23 a.m.**

PA3 Certificates Of Appreciation To Be Presented To Members Of The City Of Miami Beach Budget Advisory Committee (BAC) For Their Efforts During The Most Recent Budget Process And Thanking Jack Benveniste And Marc Jacobson Who Have Served On The BAC Since January 1998.  
(City Manager's Office)

**ACTION:** Certificates presented.

Mayor Dermer introduced the members of the Budget Advisory Committee; Jack Benveniste, Deede Weithorn, Tony Rodriguez, Marc Jacobson, David Heller, Marc Gidney, Jonathan Fryd and Fred Berens. He thanked them on behalf of the City Commission, the Administration, and City staff for their hard work during the budget process.

Deede Weithorn, the Budget Advisory Committee Chairperson, spoke. She also recognized Jack Benveniste and Marc Jacobson who are term limited after eight years of dedicated work.

**9:46:57 a.m.**

PA4 Certificates Of Appreciation To Be Presented To City Of Miami Beach For Receiving The Award Of Excellence From The Government Finance Officers Association (GFOA) For The FY 2004/05 Adopted Budget.

(Budget & Performance Improvement)

**ACTION:** Certificates presented.

Jorge Gonzalez, City Manager, announced that the National Government Finance Officers Associations bestowed on the City of Miami Beach its highest award for distinguished budget presentation, something that could not have been achieved without the help of the Budget Advisory Committee and staff. He congratulated Kathy Brooks, Budget and Performance Improvement Director, Jose Cruz, Budget Officer, and Jose's staff for their efforts.

**9:58:01 a.m.**

PA5 Certificate Of Appreciation To Be Presented To Jeff Donnelly, For His Many Years Of Service On The Miami-Dade Library Advisory Board.

(City Manager's Office)

**ACTION:** Certificate presented.

Mayor Dermer thanked Jeff Donnelly on behalf of the entire City Commission and the City for his work as an educator and library activist, and added that his efforts are appreciated.

Jeff Donnelly thanked all the City Managers he has worked with, including Jorge Gonzalez, with whom he has a good relationship, and added that it is an honor and a privilege to represent the City of Miami Beach on the Miami-Dade Library Advisory Board. He expressed his gratitude to all the officials who have helped develop this great library system, including the new South Shore Library and the new Regional Library on Miami Beach.

**10:04:09 a.m.**

PA6 Certificate Of Achievement To Be Presented To Catherine Escano Of Feinberg-Fisher Elementary, As The Winner For The Vote Miami Beach Essay Contest.

(Requested by Vice-Mayor Richard L. Steinberg)

**ACTION:** Certificate presented.

Vice-Mayor Steinberg stated that the City has held a "Vote Miami Beach Essay Contest" for the past two years, and this year the subject matter was "Women's Right to Vote." In reading the essays, he reviewed the history of women commissioners in the City of Miami Beach and the fact that there have only been five women elected officials in the City; Elayne Weisburd, Mildred Falk, Susan Gottlieb (recently elected Mayor of the City of Aventura), Nancy Liebman and presently Matti Bower. He acknowledged their accomplishments. He commended Catherine Escano, student at Feinberg-Fisher Elementary, who wrote the best essay on the women's right to vote in our country.

Olga Figueras, Principal of Feinberg-Fisher Elementary School, spoke.

**9:40:07 a.m.****New Item:**

PA7 Certificate Of Achievement To Art Miami.  
(Requested by Commissioner Matti Bower)

**ACTION:** Certificate presented.

Commissioner Bower explained that Art Miami was the pioneer in the art movement and asked Ileana Bardy to say a few words.

Ileana Bardy, Art Miami Director, stated that she is proud to be part of the growth that Miami and Miami Beach is experiencing, partially thanks to Art Basel's efforts because they have helped the local community grow and understand contemporary art.

Commissioner Gross mentioned the great success Art Basel had this past week and added that he read a great article in the New York Times; Miami Beach received great press and there were 35,000 people visiting the City. He commended the City Administration and staff involved in promoting the event.

Vice-Mayor Steinberg added that Bob Goodman, who handled the public relations for Art Basel, will welcome the opportunity to give a report to the Commission on Art Basel.

**9:48:53 a.m.****New Item:**

PA8 Certificate Of Achievement To Be Presented To Hands On Miami, South Shore Community Center.  
(Requested by Commissioner Matti Bower)

**ACTION:** Certificate presented. See comments for items PA9 and PA10.

Commissioner Bower stated that it is a privilege to recognize the individuals involved in saving the Sixth Street Community Center and who worked to keep the building from being demolished. The Center is used for social services and after renovations this past weekend, Hands on Miami worked on painting and landscaping. This building, designed by Morris Lapidus, has turned out to be beautiful, it services the community with child care, food for the elderly, job development, rides and other services that are needed. She welcomed everyone to visit the Center. She also recognized Unidad for their efforts in educating residents on how to maintain the building, Brad Judd and Vivian Alemany, from Property Management, who were instrumental in the completion of the work inside, as well as the Parks and Recreation Department.

Margarita Cepeda, Executive Director of the Hispanic Community Center and Unidad, expressed her gratitude to the City Commission, Jorge Gonzalez, City Manager, and especially Victor Diaz for his vision of creating this much needed center.

Jorge Gonzalez, City Manager, stated that Victor Diaz made this project almost a labor of love, and although he is not present today, he knows that wherever he is, he is thinking about how to make Miami Beach better, and for that we are all better served. He also commended Brad Judd and the Property Management Shop for their dedicated efforts.

Commissioner Garcia echoed Commissioner Bower and the City Manager's comments. He stated that the building was a disgrace and although it still needs more work, this is a big first step but the work needs to continue. He stated that Hands On Miami is an amazing organization that can mobilize people and get the job done.

**Handout or Reference Materials:**

1. Pictures and Video "Hands on Miami – South Shore Community Center Volunteer Revitalization Effort"

**9:48:50 a.m.**

**New Item:**

PA9 Certificate Of Achievement To Unidad, South Shore Community Center.  
(Requested by Commissioner Matti Bower)

**ACTION:** Certificate presented.

See Item PA8 for comments.

**9:48:45 a.m.**

**New Item:**

PA10 Certificate Of Achievement To Be Presented To The Property Management Department, South Shore Community Center.  
(Requested by Commissioner Luis Garcia)

**ACTION:** Certificate presented.

See Item PA8 for comments.

**10:00:35 a.m.**

**New Item:**

PA11 Certificate Of Achievement To Leslie Coller, Finding City's Unclaimed Taxes.  
(Requested by Commissioner Garcia)

**ACTION:** Certificate presented.

Commissioner Garcia stated that one of the reasons Miami Beach High is being re-built is because of Leslie's efforts. In addition, several months ago she found out that there may have been outstanding unclaimed moneys belonging to the City and with the efforts of the Finance Department a total of \$14,000 was recuperated.

Leslie Coller stated that every year there is an advertisement in the Florida Treasure Hunt where the State holds unclaimed funds, such as stocks, certificates, etc. The webpage is [floridatreasurehunt.com](http://floridatreasurehunt.com).

PA12 Certificate Of Achievement To the Parks and Recreation Department, South Shore Community Center.  
(Requested by Commissioner Matti Bower)

**ACTION:** Certificate presented. See PA8 for comments.



**CONSENT AGENDA**

**ACTION:** Motion made by Commissioner Bower to approve the Consent Agenda; seconded by Commissioner Cruz; Voice vote:7-0.

**C2 - Competitive Bid Reports**

- C2A Request For Approval To Award Contracts To ASE Telecom & Data, Inc. As Primary Vendor, And Jade Telecommunications, Inc. As Secondary Vendor, Pursuant To Invitation To Bid No. 04-05/06, For The Purchase And Installation Of Telephone, Coax, Data, And Fiber Optic Communications Cable And Accessories In The Estimated Annual Amount Of \$90,000.  
(Information Technology)

**ACTION: Award authorized.** Gladys Acosta to handle.

- C2B Request For Approval To Extend Contract No. 82-98/99, Awarded To Everglades Environmental For Grounds Maintenance Service, On A Month-To-Month Basis Until Such Time That A New Contract Is Awarded; And Further Authorize The Issuance Of A Request For Proposals (RFP) For Grounds Maintenance Services.  
(Parks & Recreation)

**ACTION: Award authorized.** Gus Lopez to issue the RFP. Kevin Smith to handle.

- C2C Request For Approval To Award Contracts Pursuant To Bid No. 23-04/05 For Concrete Curbing/Sidewalk Construction, And The Purchase Of Asphaltic Concrete/Related Materials, And The Striping Of City Streets, Awards Shall Be Based On Firm Unit Prices As Follows: Group I: F & L Construction, Inc., For Concrete Curbing/Sidewalk Construction; Group II: H&R Paving, Inc., For Milling And Resurfacing Of Asphalt Concrete And The Purchase Of Asphalt Related Materials; Group III: H&R Paving, Inc., For Asphaltic Concrete/Related Material To Be Picked-Up Or Delivered To The City; And Group IV: High Tech Striping, Inc., For Striping Of City Streets.  
(Public Works)

**ACTION: Award authorized.** Fred Beckmann to handle.

**10:38:05 a.m.**

- C2D Request For Approval To Issue A Request For Qualifications (RFQ) For Professional Architectural And Engineering Services For Design, Permitting And Construction Management Of The Beachwalk II, South Of 5th Street To South Pointe Drive.  
(Public Works)

**ACTION: Item separated for discussion by Commissioner Libbin. Award authorized.** Motion made by Commissioner Libbin; seconded by Commissioner Garcia; Voice vote: 6-0; Absent: Commissioner Bower. Gus Lopez to issue the RFQ. Fred Beckmann to handle.

Commissioner Libbin asked for this item to be separated in recognition of one of his former opponents, Gabrielle Redfern, because the bikeways were a major goal for her and the Commission should continue to strive to get additional bike paths in the City. He applauded her for her work.

**C6 - Commission Committee Reports**

C6A Report Of The G.O. Bond Oversight Committee Meeting On October 10, 2005: **1)** Contingency Report; **2)** Discussion Items: A. Renewal And Replacement Evaluation Interim Report; **3)** Recommendation To City Commission: A. South Pointe Park A/E Agreement Amendment; **4)** Project Status Report: A. Update On Fire Station # 2; B. Update On Fire Station # 4; C. Normandy Isle Park And Pool; And **5)** Informational Item: A. Updated Calendar Of Scheduled Community Meetings.

**ACTION:****Item No. 1:**

The Administration informed the Committee that no new change orders were approved.

**Item No. 2:**

The Renewal and Replacement Evaluation Interim Report was discussed. The Committee noted that the fund had been established in the prior fiscal year and that a series of projects were identified to use the funding. A report provided by Public Works was summarized and discussed. The Committee recognized the importance of maintaining the City's infrastructure as a means to preserve GO Bond dollars and possibly eliminate future GO Bond needs.

**Item No. 3:**

The Administration presented an item to the Committee regarding the **South Pointe Park A/E Agreement Amendment**. Originally the Agreement between the City and Hargreaves was for Hargreaves to complete only the planning portion of the park. This Amendment is for Hargreaves to provide both the design and construction management services for the amount of \$1,322,373.

City Clerk's note: Amendment No. 1 To The Agreement With Hargreaves Associates, Inc. was approved on October 19, 2005 – R7D.

The Administration provided an explanation on several issues. The Administration stated that the Capital Improvement Projects Office would provide all management services. The Related Group did not need to approve Hargreaves since it was not necessary that both Hargreaves and Related Group work together. The added responsibility for Hargreaves did not result in any changes to the Basis of Design Report. The pier restoration component will be addressed separately, with Public Works determining the scope and coordinating with Hargreaves.

The Administration explained that the budgeted \$14 million comprised all project costs including construction, contingency, Art in Public Places and the CIP Office fee.

A discussion was held regarding the pier and possible issues related to design, permitting and construction.

**Item No. 4(A):**

The Administration stated that construction of **Fire Station No. 2** is moving forward. Another portion of the roof and the third floor are being built. Electrical and plumbing services are also being added.

**Item No. 4(B):**

Construction of **Fire Station No. 4** is also progressing, with the roof constructed and interior installations taking place.

**Item No. 4(C):**

The Administration also provided an update on **Normandy Isle Park and Pool**, explaining that the park portion is within schedule, but had been delayed due to rain. The pool portion has some corrective demolition and installations left from the previous contractor that are underway.

Documents are being reprocessed through the Building Department. The anticipated completion date is summer 2006 and will be better defined once the Building Department issues are resolved. The Committee asked, in regard to the above mentioned projects, whether there is a construction completion date in the contract, what is the triggering date in which a contractor could be held liable for a delay, and what are the consequences of a delay for the contractor?

The Administration stated that a weather delay is not in question. Contracted completion dates will be provided at the next meeting. **Jorge Chartrand to handle.**

**Item No.5:**

The updated calendar of Community Meetings was presented to the Committee, but not discussed.

The Administration advised that the revised agenda format would be presented at an upcoming meeting.

- C6B Report Of The Finance And Citywide Projects Committee Meeting On October 12, 2005: **1)** Report On The Suggested Traffic Circle In The City Center Neighborhood (Intersection Of Washington Avenue And 17th Street); And **2)** Internal Audit Plan For Fiscal Year 2005/06.

**ACTION:**

**Item No. 1:**

The Finance and Citywide Projects Committee referred the item to the Transportation and Parking Committee after a proposed traffic study evaluating the potential traffic impacts from private and public development projects being planned for the City Center area has been completed. **Saul Francis to coordinate with Fred Beckmann.**

**Item No. 2:**

The Finance and Citywide Projects Committee instructed the Administration to bring back a schedule listing which departments and/or functions are subject to internal audit review and when they were last audited. **Jim Sutter to handle.**

**10:39:34 a.m.**

- C6C Report Of The G.O. Bond Oversight Committee Meeting On November 7, 2005: **1)** Contingency Report; **2)** Discussion Items: A. 2006 Meeting Dates; **3)** Project Status Report: A. Update On Fire Station # 2; B. Update On Fire Station # 4; C. Normandy Isle Park And Pool; **4)** Informational Item: A. Updated Calendar Of Scheduled Community Meetings.

**ACTION: Item separated for discussion by Commissioner Libbin.** Report adopted without objection.

Commission Libbin stated that he is pleased to see that the Committee is recommending an ad hoc committee to study the possibility of under grounding power lines. That was an item in his six-point plan. He also recognized Joe Fontana who, during the campaign, was also speaking on this issue. This issue of the ad hoc committee and under grounding power lines might tie into a discussion which will be held later in the meeting. See Agenda item R9K – Vice-Mayor Steinberg's item.

**Item No. 1:**

The Administration informed the Committee that no new change orders had been approved.

**Item No. 2:**

The Committee acknowledged that three of its members were term limited and needed to be replaced by year end; adding that they could stay on an additional 60 days, if needed. The Committee also expressed concern that the Transportation and Parking Committee had not provided a replacement member. **Saul Frances to handle.**

The Administration agreed to assist in the recruitment of new Committee members.

The Committee discussed the pros and cons of underground electric service lines throughout the City. The Committee decided that it will formally ask the City Commission to approve the creation of an ad hoc Committee (duration of one year or less) to canvass for underground power lines citywide, working in conjunction with the General Obligation Bond Committee. The Committee asked the Administration to assist in this process.

The Administration agreed.

The Committee further suggested that members of such a committee may include the termed members of the GO Bond Committee as well as past or present employees of an electric utility company who could provide expert knowledge.

The Committee expressed concerns in the wake of Hurricane Wilma and her impact on current and future projects. The Committee questioned whether or not the best landscaping choices were being made, based on the potential hurricane impact and the fact that such losses can not be recovered from the Federal Capital Disaster Fund. Finally, the Committee inquired about the city-wide assessment process, who was making such assessments and what could be done to expedite clean up of public facilities, such as the tennis courts at Flamingo Park.

The Administration stated that it will meet with the Architectural and Engineering firms to determine if there are more hurricane tolerant landscaping choices than those currently planned, that meet City code and will fit the scope of the various streetscape and parks projects. The Administration advised that most of the hurricane impact assessments, including the Washington Avenue medians, will be completed by teams consisting of members from Parks and Public Works departments. The Administration will ask the Architectural and Engineering teams on each project to evaluate the impact of structural damage to sidewalks and trees in proposed project areas as well as the cost of delays, due to their offices being closed as a result of the power outages. Such findings will be reported back to the Committee in future meetings as such evaluations are completed. **Kevin Smith and Fred Beckmann to handle.**

The Committee acknowledged that encroachments that impacted the success of ROW projects, to include drainage and sight restrictions, needed to be aggressively addressed. The pros and cons of rating the severity of encroachments, with respect to the project scope, as well as the need to remove encroachments that, if not removed, would detract from the project's aesthetic value, were also debated. Discussions continued as to when during the design stage was the best time to send residents notice of encroachment obstruction and the need for their removal.

The Administration advised that the current procedure was to send notices of encroachment obstruction six month prior to construction commencement, which usually equates to the 90% design stage. However, the Administration added, residents are informed of encroachment obstacles at the neighborhood meetings, but participation is usually low on the part of the residents.

**Item No. 3(A):**

The Administration advised the Committee that substantial completion of **Fire Station No. 2** will be by March 5, 2006; while final completion will occur by April 5, 2006. The historical portion will be substantially complete by December 29, 2006; with final completion by January 28, 2006<sup>7</sup>. Target

dates may be adjusted slightly due to Hurricane Wilma and if so, will be provided at the next meeting.  
**Jorge Chartrand to handle.**

**Item No. 3(B):**

**Fire Station No. 4** will be substantially complete by mid-April 2006, with final completion by May 2006. Schedule adjustments due to Hurricane Wilma, if any, will be provided at the next meeting.  
**Jorge Chartrand to handle.**

**Item No. 3(C):**

The Administration communicated that the contractor working on the pool portion of the **Normandy Isle Park and Pool** project expects to be complete by June 9, 2006. However, the Administration expressed concern that this target may be too aggressive; adding that the current status is 50-55% complete. The double pour was corrected with the previous contractor; most of the remaining work is within the building.

C6D Report Of The Finance And Citywide Projects Committee Meeting On November 10, 2005: **1)** Discussion Of The Proposed Negotiation Of The Five (5) Year Extension To The Beachfront Concession Agreement By And Between The City And Boucher Brothers Miami Beach, LLC For The Operation And Management Of Beachfront Concessions On The Beaches Seaward Of Lummus Park, Ocean Terrace, And North Shore Open Space Park; **2)** Discussion Regarding The City Of Miami Beach And The Communication Workers Of America (CWA) Bargaining Unit Outstanding Impasse Issues; **3)** Discussion Regarding The Establishment Of A Fund To Improve Education And Funding It Through Unclaimed Or Undesignated Funds From The City Of Miami Beach Homeowner's Dividend Fund; And **4)** Discussion Regarding The Proposed Land Exchange Of City-Owned Property Located At 1833 Bay Road For The Privately-Owned Property Located At 1825 West Avenue.

**ACTION:**

**Item No. 1:**

The Committee approved the proposed five year renewal option between the City and Boucher Brothers Miami Beach, LLC for the operation and management of beachfront concessions on the beaches seaward of Lummus Park, Ocean Terrace, and North Shore Open Space Park.

The Committee further referred the item to the Beach Preservation Committee and Marine Authority for input before the renewal option is exercised. **Jordanna Rubin and Alfredo Perez to place on the Committee agenda.**

**Item No. 2:**

The Committee unanimously approved the Administration's and the CWA's recommendation for maintaining the status quo for the following items:

1. Sick/vacation leave accrual (no change);
2. Accreditation Pay (no change);
3. Overtime (3.5 times) pay for call-in on day off (no change);
4. Reporting Pay Language (no change);
5. Tuition Reimbursement Language (no change); and
6. EMT Lifeguard Pay (no change)

The Committee unanimously approved the following recommendations for items one through twelve in the "Remaining Impasse Items" section of the referenced handout:

1. Elections of Remedies: eliminate Personnel Board and use arbitration only;
2. Union Time Bank and Union Conventions: create a detached primary union representative to conduct all union business as described throughout the CWA collective bargaining agreement (with the exception of attendance at negotiation sessions or Labor Management meetings). In addition, the union shall have a back-up designee that may be allowed to conduct union business on City time, if necessary, only if the primary union rep is sick or on vacation;
3. Cleaning Allowance: maintain the status quo for eligible employees who wear a uniform;
4. Promotions: maintain the status quo;
5. Seasonal/Temporary Employees: increase the number of temporary employees to 100;
6. Random Drug Testing: accept the Administration's recommendation for testing of all public safety classifications and using the current language drafted in the AFSCME labor contract;
7. Certification Pay: maintain the status quo;
8. Lifeguard/Pool Scheduling: accept the Administration's recommendation for management flexibility in scheduling work hours and work days;
9. OSHA/Asbestos Standard Removal Procedures Language: accept the City's notification efforts if the presence of asbestos exists prior to beginning work, but not including it in contracts.
10. 10Minimum Score for Automatic Step Increase: create a pay-for-performance system for step increase consistent with what is provided to the GSA and AFSCME bargaining units;
11. Uniforms: accept the Administration's proposal for uniforms and in addition grant the CWA's request to provide Life Guards with one dress shirt, dress pant and official badge.
12. Contracting Out: accept the Administration's recommendation which clarifies the City's obligation to discuss the effects of the decision to use subcontractors with the Union only in the event that it would result in lay-offs to any bargaining unit members.

**Item No. 3:**

The Finance and Citywide Projects Committee recommended the establishment of a fund to improve public educational programs by public entities in Miami Beach and funding said fund through donated, unclaimed and/or undesignated funds from the City of Miami Beach Homeowner's Dividend Fund.

**Item No. 4:**

Item Deferred.

**10:33:46 a.m.**

C6E Report Of The Joint Meeting Of The Land Use And Development Committee And Neighborhoods/Community Affairs Committee On November 14, 2005; And A Report Of The Land Use And Development Committee Meeting Of November 14, 2005: **1)** Discussion On The Creation Of A Task Force Committee To Discuss And Recommend Condominium Reform Items; **2)** Discussion Regarding Jacksonville Barrier Removal Ordinance; **3)** Discussion Regarding The Zoning Of Religious Institutions In The Single Family Districts; And **4)** Discussion Amending Parking Requirements.

**ACTION: Item separated for discussion by Commissioner Garcia.** Discussion held.

Commissioner Garcia stated that Mr. Joseph Selva, Majestic Security, Inc. spoke on condominium conversions. He is concerned that most condominium owners don't know their rights.

**Item No. 1:**

Direct the Administration to forward to the whole Commission a discussion of items for consideration, including the creation of an Ad Hoc committee consisting of two appointees per Commission member. The 14 member committee's purpose will be to discuss and make recommendations on the major issues, as identified by the administration, and said committee shall sunset six months after it first convenes. Commissioners Garcia and Bower proffered to act as liaisons to the committee. (Steinberg/Bower; vote: 4-0). **Tim Hemstreet to handle.** See Agenda Item R9H.

**THIS MEETING WAS IMMEDIATELY FOLLOWED BY THE REGULAR MONTHLY LAND USE AND DEVELOPMENT COMMITTEE MEETING, THE AGENDA AND REPORT FOLLOW:**

**Item No. 2:**

The administration will report back at the next meeting of the LUDC on the voluntary compliance program administered by the Public Works Department. **Fred Beckmann to handle.**

**Item No. 3:**

Recommend to the full Commission that the proposed ordinance not be reviewed any further. (Gross/Bower; vote 4-0)

**Item No. 4:**

The LUDC reviewed the proposed ordinance and requested the following changes be incorporated into the ordinance and brought back to the full Commission for first reading:

- Extend the exceptions of the applicability of the proposed ordinance to those projects that are included in the South Pointe DRI Development Agreement.
- Revise the threshold for guest parking.
- Create a formula for required spaces according to unit size.
- Address the issue of extension of time for projects approved prior to the effective date of the ordinance. **Jorge Gomez to handle.**

**City Clerk's note: See Agenda item R5B**

**C7 - Resolutions**

- C7A A Resolution Retroactively Approving The Appropriation Of \$183,566.66 From The Parking Fund's Retained Earnings, To Pay The 2005 Real Estate Property Taxes For Property Leased By The City From The Following Entities: 1) Yacht Club At Portofino, LTD., For The Use Of 115 Parking Spaces; 2) TRG-SSDI, LTD., For The Use Of 108 Parking Spaces; 3) Murano Two, LTD., For The Use Of 142 Parking Spaces; And 4) Murano Three, LTD., For The Use Of 206 Parking Spaces.  
(Asset Management)

**ACTION: Resolution No. 2005-26051 adopted.** Patricia Walker to appropriate funds. Joe Damien to handle.

**11:01:54 a.m.**

- C7B A Resolution Accepting The Recommendation Of The City Manager Authorizing The Administration To Negotiate Professional Services Agreements Pursuant To Request For Qualifications (RFQ) No. 22-04/05, For Professional Building Inspection And Plans Review Services In Various Disciplines On An "As-Needed Basis" For The City Of Miami Beach Building Department; And Authorizing The Mayor And City Clerk To Execute Professional Services Agreements Upon Completion Of Successful Negotiations With Any Or All Of The Following Six (6) Firms: 1) Bermello, Ajamil & Partners; 2) Capri Engineering; 3) M.T. Causley; 4) Pistorino & Alam Consulting Engineers; 5) Siddiq Khan & Associates; And 6) Tylin International/HJ Ross.  
(Building Department)

**ACTION: Item separated by Commissioner Libbin. Resolution No. 2005-26052 adopted.** Motion made by Commissioner Libbin; seconded by Commissioner Cruz; Voice vote 7-0. Hamid Dolikhani to handle.

Mayor Dermer recognized former Ambassador Paul Cejas, who was Ambassador to Belgium during President Clinton's Administration.

Commissioner Libbin commented that one of the redundant themes in campaigning was the frustration the community has in dealing oftentimes with the Building Department and with inspectors, especially when there seem to be different inspectors looking at the same project. He understands that this item is an effort to fill the vacancies at least on a temporary basis, but his concern is that residents will be further exasperated by having these temporary inspectors. He suggested referring the discussion to a committee and asked for guidance.

Commissioner Cruz stated that he is very happy to see this because of the shortage of inspectors. He explained that one of the problems is that the private sector is competing for people and taking a lot of qualified people including our inspectors, consequently a way to resolve this is contracting the private firms and using them as inspectors and this alleviates the City's problem. He stated that the direction that needs to be given is that they maintain the same company and the same inspectors for a particular building in order to have continuity with plan checking and inspections.

Commissioner Garcia stated that it is a great idea and that maintaining continuity is very important.

Jorge Gonzalez, City Manager, stated that continuity may not always be the most efficient allocation of the inspectors on a daily basis. He stated that continuity is very important during the plans review process and there needs to be consistency of the review of the plans.

Vice-Mayor Steinberg asked how the City can ensure that there is no conflict of interest.

Hamid Dolikhani, Acting Building Department Director, stated that as a condition of employment the



individual or firm is asked to terminate all relationships with any projects or firms within Miami Beach.

Vice-Mayor Steinberg also asked what happens when the principle is the same in a project in Miami and now in Miami Beach. He suggested having a conflict check as part of the process.

Hamid Dolikhani, Acting Building Department Director, stated they will do a conflict check. **Hamid Dolikhani to handle.**

Commissioner Gross stated that the Business Resolution Task Force made the same recommendation regarding the inspectors being on the same projects. He stated that the problem is not getting a timely inspection but the consistency of the inspections and also even if different inspectors make the inspections they should abide by the approved plans. The problem is when the plans are approved and the inspector does not care what the plans indicate and the inspector requests a change(s). He also stated that he raised this issue with the CIP projects that are costing the City about \$225,000 per employee to outsource this function and it will be a lot less expensive to come up with a way of changing the pay scale of those inspectors. He explained that there is an item on the agenda that gives the City Manager 20% discretion and he thinks this applies to building inspectors as well.

Jorge Gonzalez, City Manager, explained that the 20% increase does not cover inspectors because inspectors are covered by the Communication Workers of America (CWA) Bargaining Unit and the City does not have that discretion. He stated that if when recruiting there is more than one position with a viable candidate, he had instructed the Building Director to over hire or pay a little bit more if the City has to.

Hamid Dolikhani, Acting Building Department Director, stated that the department has 11 vacancies at this time. He added that the City cannot compete with the private sector and the department just lost three inspectors this month and the City needs to become a little more competitive with the private sector.

Commissioner Gross stated that on December 8 at the Convention Center from 8:30 a.m. until 12:30 p.m. the selection process will take place for the hiring of the Building Department Director and it is open to the public. He wished Hamid well.

- C7C A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 4 To The Current Professional Services Agreement Between The City And The Firm Of MC Harry And Associates, Inc., Dated July 12, 2000, In The Amount Of \$33,348, For The Provision Of Additional Construction Administration Services, For The Construction Completion Of A New Fire Station No. 4.; And Appropriating \$33,348 From The General Fund Operating Contingency.  
(Capital Improvement Projects)

**ACTION: Resolution No. 2005-26053 adopted.** Patricia Walker to appropriate funds. Jorge Chartrand to handle.

**10:16:13 a.m.**

C7D A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 2 To The Agreement Between The City Of Miami Beach And URS Corporation - Southern, Dated June 27, 2001, To Provide Additional Program Management Services For The Remaining Construction Of The Normandy Isle Park & Pool Facility Project And During The Design And Construction Phases Of The Normandy Shores Golf Course And Clubhouse Project, In The Amount Of \$250,000, To Be Funded By The Pay-As-You-Go Capital Fund And From General Fund CIP Salary Savings.  
(Capital Improvement Projects)

**ACTION: Item separated for discussion by Commissioner Gross. Resolution No. 2005-26054 adopted.** Motion made by Commissioner Gross; seconded by Commissioner Bower; Voice vote:7-0. Patricia Walker to appropriate funds. Jorge Chartrand to handle.

Commissioner Gross stated that he would like to have the City Manager explore with the contractor of the Normandy Pool possible incentives to be sure that the project will be finished by next summer.

Jorge Chartrand, CIP Director, stated that the June and July dates listed in the Commission Agenda are substantial and final completion dates. He also stated that he has already begun a dialogue with URS, the program manager, to see where incentives or other means can be done to expedite the project. He is also meeting with the contractor this afternoon to explore ways to expedite the project. The Commission will be informed of the outcome of these discussions. **Jorge Chartrand to prepare an LTC.**

Commissioner Gross stated that the Normandy Golf Course has been closed for five or six months and he thinks it was closed prematurely. He stated that the users would like to see it in operation and since the renovation is not going to start for some time, he suggested to the City Manager to see what can be done to make the course "playable."

Jorge Gonzalez, City Manager, stated that the City is looking into the costs involved to make this golf course operational, similar to the Par-3 course, and keep the area usable as a park. Staff is looking into the cost of maintenance and what needs to be done. He stated that an LTC should be sent out in a day or so. **Kevin Smith to handle.**

Commissioner Libbin stated that since the two hurricanes the Normandy golf course is in real bad shape and clean up is needed. He recommended an immediate clean up, such as removing down trees, mowing the grass, etc. Regarding the Normandy pool, he asked the City Commission to give the City Manager direction to ensure that the kids have an opportunity to swim this summer regardless of whether the pool is ready. He suggested making provisions for one or two above-ground pools in North Beach and making the necessary arrangement such as permitting, funding, etc., ahead of time.

Commissioner Cruz stated that he spoke to the golf course manager who is concerned that it will be very costly to gear up the golf course and by the time it is in usable condition, it will be time to start the renovations. He explained that the grass has been allowed to overgrow and there has been no fertilizing so the weeds are growing rampant.

Jorge Gonzalez, City Manager, stated that staff is working on developing the cost of maintaining the course similar to the Par-3 golf course. **Kevin Smith to handle.**

Commissioner Garcia stated that the Administration should be doing whatever is necessary to have the pool ready for the summer even if it requires the contractor to work seven days a week.

Commissioner Gross stated he has a concern with the funding source. When the pay-as-you-go dollars were approved in this year's budget, he did not anticipate using the funds for "soft" costs to

pay for architects and program managers. His concept was that the money was to be used to cover funding shortfalls for capital improvements. He asked the City Manager to find another funding source for soft costs expenses.

Jorge Gonzalez, City Manager, stated that if it were not for Normandy Pool, the pay-as-you-go dollars would not be used. **Kathie Brooks to handle.**

Commissioner Libbin asked again about getting prepared in the event above ground pools will be needed.

Commissioner Gross suggested waiting until the negotiations with the contractor are concluded.

Jorge Gonzalez, City Manager, stated that the Parks and Recreation staff is already looking into what activities need to happen if the above ground pool solution is needed and the timetables. **Kevin Smith to handle.**

- C7E A Resolution Acknowledging The Merger Agreement Between EDAW, Inc. And AECOM Technology Corporation, Inc., And Consenting To The Assignment Of All Current Agreements Between EDAW, As Assignor, And The City, To The New Resulting Merged Firm Of EDAW II, As Assignee.  
(Capital Improvement Projects)

**ACTION: Resolution No. 2005-26055 adopted.** Jorge Chartrand to handle.

**10:40:37 a.m.**

- C7F A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 5 To The Current Agreement Between The City And The Corradino Group (Formerly Known As Carr Smith Corradino) For Parks Master Plan Bond Program Sites Scott Rakow Youth Center; Flamingo Park; And Normandy Park; Said Amendment To Provide For The Provision Of Additional Construction Administration And Testing Services, In The Amount Of \$120,280, During Completion Of The Construction Of The Normandy Isle Park & Pool Facility To Be Appropriated From The Pay-As-You-Go Capital Fund.  
(Capital Improvement Projects)

**ACTION: Item separated for discussion by Commissioner Libbin to discuss the pool. See Agenda Item C7D. Resolution No. 2005-26056 adopted.** Motion made by Commissioner Libbin; seconded by Commissioner Gross; approved without objection. Patricia Walker to appropriate funds. Jorge Chartrand to handle.

- C7G A Resolution Relating To Payment Of Legal Expenses Totaling \$5,316.33 To The Law Firm Of Jordan Burt Incurred In Defense Of Miami Beach City Commissioner Saul Gross Relating To Potential Litigation Of Leroy Griffith And Club Madonna; Reciting Findings Supporting Said Payments Of Legal Expenses.  
(City Attorney's Office)

**ACTION: Resolution No. 2005-26057 adopted.** Legal Department to handle.

- C7H A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Covenant In Lieu Of Unity Of Title On Behalf Of The City Of Miami Beach As Owner, Between And Among New World Symphony, Inc. ("NWS"), A Florida Not-For-Profit Corporation, 420 Lincoln Road Associates, Inc. ("Development"), A Florida Corporation, And The City, To Satisfy Parking Requirements Under The City's Land Development Regulations, Under Sections 130-36 And 142-368 Of The City Code, For The NWS Campus Expansion Project, "Sound Space", Located On City Land Described In The Covenant, By Allowing 175 Required Parking Spaces For Sound Space To Be Located Off-Site At Development's Property At 1601 And 1619 Drexel Avenue And 1600 Washington Avenue, And Related Provisions, And Authorizing The City Manager And City Attorney To Take Such Actions As May Be Necessary To Carry Out The Intent Hereof.  
(City Attorney's Office)

**ACTION: Resolution No. 2005-26058 adopted.** Legal Department to handle.

Supplemental Material: C7I - Resolution

- C7I A Resolution Confirming The Reappointment Of Ms. Zoila Datorre And Appointment Of Ms. Ana Kasdin To Serve As City Of Miami Beach Representatives On The Miami-Dade County Library Advisory Board For A Three Year Term, Commencing On October 1, 2005.  
(City Manager's Office)

**ACTION: Resolution No. 2005-26059 adopted.** Dolores Mejia to transmit the resolution.

- C7J A Resolution Approving A First Amendment To The Interlocal Agreement By And Between The City Of Miami Beach And Miami-Dade County, Dated June 20, 1986, Pertaining To The Provision Of Library Services For The Residents Of The City Of Miami Beach, Florida; Said Amendment Referencing The Relocation Of Services To The New Regional Library And The New South Shore Reading Room, Respectively; Establishing A Police Substation At The New Regional Library; And Clarifying The Definition Of "Maintenance Fees" To Include The Reimbursement Of And Future Payment By The County Of Condominium Fees At The New South Shore Reading Room, Which Is Located At The Courts Condominium.  
(Economic Development)

**ACTION: Resolution No. 2005-26060 adopted.** Kevin Crowder to handle.

- C7K A Resolution Approving, In Substantial Form, A Cooperative Purchase Agreement Between The City Of Miami Beach And The State Of Florida Counter-Drug Procurement Program Office To Purchase Qualifying Law Enforcement Equipment Pursuant To National Defense Authorization Act Section 1122 (Title 10 USC 381), And Further Authorizing The Mayor And City Clerk To Execute The Agreement In Final Form, Subject To Review By The Administration And City Attorney's Office.  
(Fleet Management)

**ACTION: Resolution No. 2005-26061 adopted.** Chief De Lucca and Gus Lopez to handle.

- C7L A Resolution Retroactively Approving And Authorizing The City Manager Or His Designee To Submit Applications For Grant Funds To The Following Agencies: 1) Federal Emergency Management Agency (FEMA) For Hazard Mitigation Planning Grant Funds For Funding In An Amount Not To Exceed \$325,000 For The Development Of A Geographic Information System (GIS); 2) Federal Emergency Management Agency (FEMA) For Hazard Mitigation Planning Grant Funds For Funding In An Amount Not To Exceed \$100,000 For The Development Of An Emergency Management Plan; 3) Miami Dade County Office Of Emergency Management For FY 2005/06 Florida Domestic Security Funding For Citywide Security-Related Projects; 4) State Of Florida Department Of Environmental Protection Coastal Partnership Initiative Grant For Funding In An Amount Not To Exceed \$30,000 For The Allison Park Eco-Walk Project; 5) Federal Emergency Management Agency (FEMA) For Pre-Disaster Mitigation Funds For Storm Shutters And Protective Glass For City Buildings; 6) US Soccer Foundation For Funding In An Amount Not To Exceed \$100,000 For Renovation Of Normandy Isle Soccer Field; And For, 7) Emergency Food And Shelter Program For Funding In An Amount Not To Exceed \$40,000 For Homeless Outreach Initiatives; Further Appropriating The Grants And Matching Funds, If Approved And Accepted By The City; And Authorizing The Execution Of All Necessary Documents Related To These Applications.
- (Grants Management)

**ACTION: Resolution No. 2005-26062 adopted.** Patricia Walker to appropriate the funds if approved and accepted. Judy Hoanshelt to handle.

- C7M A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of The Proposals Received Pursuant To Request For Proposals (RFP) No. 07-04/05, To Provide Testing Services/Programs To Determine Qualified Applicants For Police And Fire Entry Level And Classified Promotional Classifications, (Base Proposal) And; 2) Provide Consultation Services (Alternate Proposal) For The Sworn And Non-Sworn Positions For Job Analysis Results Developed Entry Level And Promotional Tests, Scoring, Minimum Requirements For Jobs, And Background Tests Requirements; Authorizing The Administration To Enter Into Negotiations With The Top Ranked Firm Of David Santisteban, Ph.D. For The Base Proposal; And Should The Administration Be Unsuccessful In Negotiating With David Santisteban, Ph.D, Authorizing The Administration To Enter Into Negotiations With The Second Ranked Firm Of Barrett & Associates, Inc.; And Authorizing The Administration To Enter Into Negotiations With The Top Ranked Firm Of David Santisteban, Ph.D, For The Alternate Proposal (Consultation Services); And Should The Administration Be Unsuccessful In Negotiating With David Santisteban, Ph.D, Authorizing The Administration To Enter Into Negotiations With The Second Ranked Firm Of Cps Human Resource Services; And Further Authorizing The Mayor And City Clerk To Execute An Agreement(s) Upon Completion Of Successful Negotiations By The Administration For The Base And Alternate Proposals In The Estimated Annual Amount Of \$108,737.
- (Human Resources & Risk Management)

**ACTION: Resolution No. 2005-26063 adopted.** Mayra Diaz Buttacavoli to handle.

- C7N A Resolution Authorizing The Appropriation Of \$38,000.00 From Resort Tax Contingency In Support Of The 2005-2006 New Year's Celebration.
- (Tourism & Cultural Development)

**ACTION: Resolution No. 2005-26064 adopted.** Patricia Walker to appropriate the funds. Max Sklar to handle.

**10:41:07 a.m.**

Supplemental Material: C7O - Resolution

C7O A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Home Investment Partnerships (Home) Program Agreement With The Miami Beach Community Development Corporation (MBCDC) Providing \$522,493 Of Home Program Funds For The Rehabilitation Of The Westchester Apartments, Located At 516 15th Street, Miami Beach, To Provide 24 Rental Units For Income-Eligible Participants In Accordance With The Home Program Requirements; Further, Approving A One-Time Only Assignment Of This Agreement To MBCDC: Westchester Apartments, LLC, A Not-For-Profit Entity Created By MBCDC As A Successor In Interest In Title To The Property Located At 516 15th Street, And Under This Agreement.  
(Neighborhood Services)

**ACTION: Item separated for discussion by Commissioner Libbin. Resolution No. 2005-26065 adopted and the issue of the Carrfour Project at Meridian and 5<sup>th</sup> Street was referred to the Finance and Citywide Project Committee for a report on the status of the project.** Motion made by Commissioner Bower; seconded by Commissioner Garcia; Voice vote: 7-0. Patricia Walker to place on the committee agenda. Vivian Guzman to handle.

Commissioner Libbin stated that the merits of the program are great. He added that North Beach Development Corporation was treated differently when it comes to funds-carried-over from one year to the next. He suggested that agencies and individuals in the community should all feel that they will be treated the same. He pointed out that this item is using carryover funds from previous years. He asked how the \$750,000 shortfall is going to be made up; how carryover funds can be used, and suggested having consistency in order for agencies to be treated in the same manner.

Roberto Datorre, President, Miami Beach Community Development Corporation (MBCDC), explained how the shortfall would be recovered.

Commissioner Garcia asked if MBCDC was going to take over the Carrfour project at Meridian and 5<sup>th</sup> Street.

Roberto Datorre, President MBCDC, stated that he has not talked with Carrfour on this issue.

Commissioner Garcia stated that the City contributed money to Carrfour and asked when the project would be completed.

Vivian Guzman, Neighborhood Services Director, explained that there have been some issues with Carrfour and their funding from the County. The City has not released any of the \$300,000 funding and will continue monitoring and re-evaluating this issue. **Vivian Guzman to handle.**

Commissioner Garcia asked how much longer the City is willing to wait and requested a referral to the Finance and Citywide Projects Committee for a full report.

Handout or Reference Material:

1. Four (4) pages re: Westchester Apartments Uses, Annual Rent Schedule, Annual Cash Flow, Net Cash Flow and Debt Coverage; includes Pre-Development Costs and Operation Expenses and Funding

**Supplemental Material: C7P – Resolution**

C7P A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Home Investment Partnerships (Home) Program Agreement With The Miami Beach Community Development Corporation (MBCDC) Providing \$118,030 Of Home Program American Dream Down Payment Initiative (ADDI) Funds For Down Payment Assistance To Income-Eligible Participants In The First-Time Homebuyer Program.

(Neighborhood Services)

**ACTION: Resolution No. 2005-26066 adopted.** Vivian Guzman to handle.

C7Q A Resolution Authorizing The Mayor And City Clerk To Execute The Attached State Housing Initiatives Partnership (SHIP) Program Agreement Between The City And Miami Beach Community Development Corporation, Which Provides Ship Program Funds, In The Amount Of \$476,041, From Fiscal Year 2004/2005, To Continue A Workforce Housing Rehabilitation Component For The Scattered-Site Home Ownership Program, Providing Rehabilitation, Down Payment Assistance, Closing Cost Assistance And Home Ownership Counseling, For Units Purchased By Eligible Home Buyers Under The Rules Of The Ship Program And The City's Local Housing Assistance Plan.

(Neighborhood Services)

**ACTION: Resolution No. 2005-26067 adopted.** Vivian Guzman to handle.

C7R A Resolution To Execute Amendment No. 2 To The Professional Services Agreement, Dated April 30, 2003, Between The City Of Miami Beach And Hillier Group Architecture, New Jersey, Inc. For Fees In An Amount Not To Exceed \$23,000.00, And For Reimbursable Expenses In An Amount Not To Exceed \$16,900.00, For A Total Amount Of \$39,900.00, For Additional Services For Field Testing Of The Visibility Of The Futura Typeface For The Citywide Wayfinding Signage System; And Appropriating \$39,900.00 From Fund 481 Parking Revenue Bonds 1997.

(Planning Department)

**ACTION: Resolution No. 2005-26068 adopted.** Patricia Walker to appropriate the funds. Jorge Gomez to handle.

City Clerk's Note: 12/14/05 – Original Agreement approved via Resolution 2003-25182 on April 30, 2003. Amendment No. 1 in the amount of \$5,000 was signed by the City Manager.

C7S A Resolution Authorizing The Mayor And The City Clerk To Execute An Memorandum Of Understanding Between The City Of Miami Beach And The Florida Department Of Law Enforcement, Authorizing The Miami Beach Police Department To Access Information From The Janus/JusticeXchange, A Jail Inmate Locator Service.

(Police Department)

**ACTION: Resolution No. 2005-26069 adopted.** Chief De Lucca to handle.

**11:01:40 a.m.**

C7T A Resolution Authorizing The Mayor Or His Designee, And The City Clerk To Execute A Professional Services Agreement Between The City Of Miami Beach, Florida And The State Attorney's Office For The Eleventh Judicial Circuit In And For Miami-Dade County, Florida For Criminal Prosecution Of Local Code And Ordinance Violations.

(Police Department)

**ACTION: Item separated for discussion by Vice-Mayor Steinberg. Resolution No. 2005-26070 adopted.** Motion made by Vice-Mayor Steinberg; seconded by Commissioner Gross; Voice vote: 7-0. Chief De Lucca to handle.

Vice-Mayor Steinberg explained that he separated the item because a speaker had signed up to speak on the item. The speaker did not show, so he moved the item.

C7U A Resolution Approving The Appropriation Of Funds From The Stormwater Enterprise Fund For Environmental Monitoring Work To Complete Remediation Activities At The Miami Beach, formally Bayshore, And Normandy Golf Courses For Fiscal Year 2005/2006 In The Amount Of \$ \$88,895.

(Public Works)

**ACTION: Resolution No. 2005-26071 adopted.** Patricia Walker to appropriate the funds. Fred Beckmann to handle.

C7V A Resolution Ratifying A Contract, In The Total Amount Of \$70,875, To Pro-Max Paint Corporation, To Provide For Pressure Cleaning, Waterproofing, And Painting Services At The Police Department Building (The Project).

(Public Works)

**ACTION: Resolution No. 2005-26072 adopted.** Gus Lopez to ratify contract. Fred Beckmann to handle.

**10:31:34 a.m.**

C7W A Resolution Waiving, By 5/7ths Vote, Formal Competitive Bidding Requirements, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The City Manager, Through His Designee, Who Shall Be The City's Property Management Director, A Licensed General Contractor, To Select, Negotiate, And Award All Contracts, Agreements, Purchase Orders, And Change Orders For The Purchase Of All Necessary Goods And Services Relative To The Fiscal Year 2005/2006 Capital Renewal And Replacement Projects; Providing That All Documents Be Reviewed By The Appropriate Members Of The Administration And City Attorney's Office, And Shall Contain Those Minimum Terms And Conditions As Set Forth In This Resolution; And Further Authorizing The Mayor And City Clerk To Execute Any And All Agreements Relative To The Aforestated Projects.

(Public Works)

**ACTION: Item separated for discussion by Commissioner Gross. Resolution No. 2005-26073 adopted. The FY 05-06 Renewal and Replacement Fund was amended to change the glass block windows at the Police Station and Community Center.** Motion made by Commissioner Gross; seconded by Commissioner Libbin; Voice vote: 7-0. Fred Beckmann to handle.

Commissioner Gross suggested having regular glass windows instead of glass block at the Police Station. He will support the item with this amendment.

Fred Beckmann, Public Works Director, stated that the glass block is being replaced with hurricane resistant plate glass. The same thing will be done at the Community Center.

City Clerk's note: A list of the FY 05-06 Renewal and Replacement fund items are included in the agenda.



- C7X A Resolution Approving And Authorizing The Administration To Execute An Interlocal Agreement With Miami-Dade Transit (MDT), In The Amount Of \$125,300, For MDT And The City Of Miami Beach To Conduct A Coastal Communities Transit Study; And Further Authorizing The Appropriation Of \$62,650 In Concurrency Mitigation Funds To Cover The Required Fifty Percent City Match Of The Study Cost.

(Public Works)

**ACTION: Resolution No. 2005-26074 adopted.** Patricia Walker to appropriate the funds. Fred Beckmann to handle.

City Clerk's note: Included with this item are the Scope of Services for Miami-Dade Transit & the City of Miami Beach – "Coastal Communities Transit Study" – Center for Urban Transportation Research University of South Florida, dated October 6, 2005.

**10:58:34 a.m.**

- C7Y A Resolution Consenting To The Appointment Of Jorge E. Chartrand As Capital Improvement Project Director.

(City Manager's Office)

**ACTION: Item separated for discussion by Jorge Gonzalez, City Manager. Resolution No. 2005-26075 adopted.** Motion made by Commissioner Garcia; seconded by Commissioner Bower; Voice vote: 7-0. Mayra Diaz Buttacavoli to handle.

Jorge Gonzalez, City Manager, stated that Jorge Chartrand of CIP has excelled in his assignment as assistant director and now as acting director.

Commissioner Garcia stated that he has known Jorge Chartrand for 45 years and he is an honorable individual.

Jorge Chartrand, CIP Director, stated that he hopes he can live up to the appointment.

- C7Z Appointment Of Chief Special Master:

1. A Resolution Accepting The Recommendation Of The Miami Beach City Manager And City Attorney, Pursuant To Section 30-36 Of The Code Of The City Of Miami Beach, Concerning The Reappointment Of Jimmy L. Morales, Esquire, To Serve As Chief Special Master, Commencing January 1, 2006, And Ending June 30, 2006, Who Shall Be Authorized To Hold Hearings And Impose Fines, Liens And Other Non-Criminal Penalties Against Violators Of The City And County Codes And Ordinances, And Shall Also Be Authorized To Appoint Such Other Special Masters As May Reasonably Be Required To Conduct The Subject Hearings; Incorporating All Other Matters Set Forth Within City Of Miami Beach City Code Chapter 30, Section 30-37(A) Concerning The Compensation And Duties Of The Chief Special Master.

**ACTION: Resolution No. 2005-26076 adopted.** Robert Parcher to handle.

2. A Resolution Accepting The Recommendation Of The City Manager And City Attorney, Pursuant To Sections 30-36 And 102-356 Of The Code Of The City Of Miami Beach, Concerning The Reappointment Of Jimmy L. Morales, Esquire, To Serve As Chief Special Master Pursuant To Chapter 30 Of The Code And To Serve As "Designee" Pursuant To Section 102-356 Of The City Code, Commencing January 1, 2006 And Ending June 30, 2006, Who Shall Be Authorized To Hold Administrative Hearings Regarding Appeals From

Citations For Violations Of City And County Codes And Ordinances, And Regarding Denials, Suspensions, And Revocations Of Occupational Licenses, Certificates Of Use And Permits As Provided By The City Code, And To Appoint Such Other Special Masters As May Reasonably Be Required To Conduct Such Hearings Pursuant To City Ordinances.  
(City Clerk's Office)

**ACTION: Resolution No. 2005-26077 adopted.** Robert Parcher to handle.

C7AA A Resolution Approving The Purchase Of All Risk Property Insurance (Fine Arts) For The Bass Museum Of Art And The City In General, For An Annual Premium Of \$50,000.00, For A One-Year Period, With An Option To Renew For Two (2) Additional Years, Provided The Annual Rate Does Not Increase By More Than Twenty Percent (20%) Per Year, As Proposed, With Lloyds Underwriters.  
(Human Resources & Risk Management)

**ACTION: Resolution No. 2005-26078 adopted.** Cliff Leonard to handle.

**10:45:54 p.m.**

C7BB A Resolution Accepting The City Manager's Ranking Of Firms Relative To Request For Proposals (RFP) No. 39-04/05, To Select A Consultant To Provide Pilot Network(s) Management And Testing And Project Management Services For The City Of Miami Beach Wireless Broadband Network Initiative (WiFi); Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm Of Civitium, And Should The Administration Not Be Able To Successfully Negotiate An Agreement With The Top-Ranked Firm, Authorizing The Administration To Enter Into Negotiations With The Second-Ranked Firm Of Excelsio Communication Corporation; Authorizing The Mayor And City Clerk To Execute An Agreement Upon Completion Of Successful Negotiations By The Administration, In The Base Estimated Amount Of \$56,000; And Further Appropriating Funds In The Amount Of \$56,000, From The Information And Communication Technology Fund.  
(Information Technology)

**ACTION: Item separated for discussion by Commissioner Garcia and heard in conjunction with Item R7E. Resolution No. 2005-26079 adopted.** Motion made by Commissioner Bower: seconded by Vice-Mayor Steinberg; Voice vote: 6-1; Opposed: Commissioner Garcia. Patricia Walker to appropriate the funds. Gladys Acosta to handle.

Patricia Walker, Chief Financial Officer, stated that the evaluation committee recommended that while negotiating with WFI and IBM (See Agenda Item R7E), that a ½ square mile pilot be installed during the negotiations and before the contract is finalized.

Jorge Gonzalez, City Manager, was directed to negotiate with both companies and then the pilot project will be evaluated. The final decision will be made based on the performance of the system and the price. Patricia Walker to handle.

**End of Consent Agenda**

**REGULAR AGENDA****R5 - Ordinances****11:22:45 a.m.**

R5A An Ordinance Amending Miami Beach City Code Chapter 2, Entitled "Administration", Division 30 Entitled "Committee For Quality Education In Miami Beach Schools", Section 2-190.137 Thereof Entitled "Composition; Knowledge And Experience", By Deleting From The Committee's Membership The Three Nonvoting City Ex Officio Members And Instead Providing For Two City Commissioners And A City Manager Designee To Serve As Liaisons Between The Committee And The City Commission/Administration; Providing For Repealer, Severability, Codification, And An Effective Date.

**10:15 a.m. Second Reading, Public Hearing .**

(Requested by Commissioner Matti Herrera Bower)  
(First Reading on October 19, 2005)

**ACTION:** Public Hearing held. **Ordinance No. 2005-3498 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Cruz; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code. Ramiro Inguanzo to handle.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald.

**5:15:43 p.m.**

Supplemental Material: R5B – Ordinance

R5B Off-Street Parking Requirement For Residential Uses

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 118, Article VIII, "Procedure For Variances And Administrative Appeals," By Clarifying The Language Of Prohibited Variance Applications; Chapter 130, "Off-Street Parking," Article II, "Districts; Requirements," By Increasing The Off-Street Parking Requirement For Residential Uses And Suites Hotel Units In All Districts, Clarifying How Parking Requirements May Be Satisfied, Providing For Repealer, Severability, Codification And An Effective Date. **10:30 a.m. Second Reading, Public Hearing.**

(Planning Department)  
(First Reading on October 19, 2005)

**ACTION:** Item opened and continued without objection to February 8, 2006 At 10:30 a.m.. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald.

**5:20:56 p.m.**

Supplemental Material: R5C – Ordinance

R5C An Ordinance Amending Chapter 46 Of The City Code, Entitled "Environment," By Amending Article IV, Entitled "Noise," By Amending Section 46-151, Entitled "Definitions," To Provide New Terms And Definitions And Deleting Certain Terms And Definitions; Amending Section 46-152, Entitled "Unreasonably Loud Noise Prohibited," By Amending The Title And Adopting Section 21 – 28 Of The Code Of Miami-Dade County By Reference; Amending Section 46-153, Entitled "Responsibility For Compliance," By Amending The Provisions Thereof; Repealing Section 46-154, Entitled "Noise Level In Specific Area"; Repealing Section 46-155, Entitled "Additional Sound Limitations For Public Property"; Amending Section 46-156, Entitled "Temporary Permits," By Expanding The Prohibited Areas For Construction Noise To Within 300 Feet Of Certain Districts And Amending The Exemptions For Special Events And Film Permits; Amending Section 46-157, Entitled "Exemptions," And By Deleting Subsection (11) And Amending The Provisions Thereof; Amending Section 46-158, Entitled "Enforcement By Code Inspectors; Notice Of Violation," By Amending The Procedures For Enforcement And Warnings; Amending Section 46-159, Entitled "Civil Fines For Violation; Appeals," By Amending The Fines And Penalties For Violations, The Appeal Procedures, And The Alternate Means Of Enforcement; Amending And Renumbering Section 46-160, Entitled "Nuisance," As Section 46-161, And Renaming Section 46-160 As "Relief From Violations For Sound Systems And Compliance" And Creating Provisions Therefore; Amending And Renumbering Section 46-161, Entitled "Motor Vehicle Alarms" As Section 46-162 Which Is Hereby Created; Providing For Codification, Repealer, Severability, And An Effective Date. **First Reading.**

(City Manager's Office)

(Continued from October 19, 2005)

**ACTION: Ordinance approved on First Reading including all the amendments.** Motion made by Vice-Mayor Steinberg; seconded by Commissioner Bower; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for January 11, 2006. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Robert Middaugh to handle.

Robert Middaugh, Assistant City Manager, introduced the item and gave an overview of the history of this ordinance.

Kent Harrison Robbins Esq., representing 1500 Ocean Drive, the Bellagio and the Roney Palace Condominiums, spoke.

David Kelsey representing the Miami Beach Hotel and Restaurant Association spoke.

Dr. Morris Sunshine spoke.

Luis Martinez spoke.

Frank Del Vecchio spoke.

Herb Frank, President of the Belle Isle Residents Association, spoke

Steve Polisar, Chairman of the Nightlife Task Force, spoke.

Stu Blumberg, President of the Greater Miami Hotel & Restaurants Association, spoke.

David Wallack, owner of Mango's Tropical Café, spoke.

Henry Stolar from 1500 Ocean Drive Condominium spoke.

David Mincus spoke.

Steve Hass, Chairman of the VCA and China Grill Management, spoke.

Randy Hoffer spoke.

Leo Ostreicher spoke.

Josh Fisher, Vice President of the Belle-Isle Residents Association, spoke.

Evelyn Dominique spoke.

Commissioner Gross stated several points: 1) he does not have a problem having noise to the east as long as there are no residents. He hasn't heard from the residents that this is a big issue; 2) he suggested a slightly different warning schedule in residential zoning districts than in commercial or mixed use zoning districts. He stated that the number of warnings in a residential zone either in

South Pointe, Belle Isle, or Sunset Harbor, should be three (3) warnings. In the commercial zoning districts he believes twelve (12) is too many.

Commissioner Bower agreed with Commissioner Gross on three (3) warnings for residential zoning districts. She suggested two types of warnings; one generated by a complaint and one not generated by a complaint. Based on this there may be a different warning system.

Commissioner Libbin stated that several items do not seem to be codified in the ordinance; one is noise to the east. He recommends that noise to the east not be measured. In addition it is not codified whether the code enforcement officer has a differentiation in how the sound is measured prior to 11:00 p.m. at night and to what degree. During Agenda Review with the City Manager and in reference to Section 46-158(b), Warnings, the first line reads "In the following circumstances, a code inspector shall first issue one written warning.....", he was assured that this is not how the code officers will be trained, or have been trained. In fact, he was told that an officer "may" issue a warning but that the officer must go to the operator, manager or owner and instruct them to turn it down and at that point the inspector may or may not issue a warning. If that is how the City is training, change the language from "shall" to "may" issue a warning.

Robert Middaugh, Assistant City Manager, explained that the ordinance is trying to establish that there is an official and limited amount of warnings. The ordinance anticipates that you are being warned for having violated, that is, exceeding the threshold of Miami-Dade County Code 21-28. There is an opportunity and the expectation that a code officer, when on a scene, finds that the noise isn't quite exceeding the acceptable noise level, but it's close, they let the operator, manager or owner know, and this is not considered a warning. This is a practice the code officer will do to try to head-off a problem. The other issue is codifying the amount of sound which is allowed. Miami-Dade County Code 21-28, which has been upheld by the courts, provides several different tests to establish if there is an excessive amount of noise. One of the more precise tests is after 11 p.m., at 100 feet from the noise source, is the noise clearly audible? In practice that is meant to be, does the noise source interfere with normal conversation of someone 100 feet away? The enforcement practice will not change by the adoption of this ordinance. What changes is the value assigned to the warnings, which is undefined at this time. Miami-Dade County Code 21-28, which was embraced in the court's opinion, built-in flexibility for the code officer to recognize the two different times. Code 21-28 defines noise violations as being unreasonably loud, excessive, unnecessary or unusual. That in context is intended to have its common sense meaning associated with what is excessive at 4 p.m. is different from that at 11 p.m. This is a training issue which is being dealt with.

Commissioner Libbin stated that the ordinance in front of the Commission is trying to impose regulations, fines and penalties, based on whatever we think the law means and how to interpret that law and suggested at least to talk about what happens prior to 11:00 p.m. His concern is giving the discretion to the code officer and second, that the proprietor should have some objective way to measure.

Donald Papy, First Assistant City Attorney, stated that part of the law being used today is the County ordinance which has been upheld. There is no greater definition that is required, constitutionally, according to the court, and none have attempted to be added.

Commissioner Cruz stated that the noise recognition is totally subjective. He also stated that the ordinance should be complaint driven.

Vice-Mayor Steinberg suggested a two prong approach; one when there is a complaint in which the code officer determines there is a violation and issues a warning, and on a subsequent violation on the same day issues a violation. The second prong is if there is no complaint, but the code officer thinks the noise is too loud, a verbal warning could be given.

Donald Papy, First Assistant City Attorney, stated that the requirement or differentiation between a code officer and a citizen is not available. The authority to decide if the law has been broken cannot be delegated to a citizen.

Vice-Mayor Steinberg stated that if police officers have discretion, why can't the code officer have the same type of discretion and when there is no complaint but the code officer thinks the noise level is too loud, give a verbal warning.

Donald Papy, First Assistant City Attorney, stated that what is suggested above can be done via a matter of policy but does not believe it should be written into the ordinance.

Commissioner Garcia stated that the problem with the ordinance is that it is very subjective and stated that he is not inclined to approve an ordinance that is not complaint driven.

**Motion #1:**

**Motion made by Commissioner Gross to approve the ordinance as proposed with the following changes:**

- 1. Do not measure noise from the east between 8<sup>th</sup> Street and 13<sup>th</sup> Street on Ocean Drive and on Collins Avenue north, except when there is a building being affected to the east. This should not be done between 1<sup>st</sup> and 5<sup>th</sup> Streets because they are in a residential zone.**
- 2. Three warnings in residential zoning districts and six warnings in commercial or mixed use zoning districts.**
- 3. Eliminate the Engineering Sound System. He considers this a loophole and the burden should be on the business owner to hire an engineer up front.**

**Commissioner Bower seconded the motion.**

No vote taken and discussion continued.

**Amendment to Motion #1:**

**Vice-Mayor Steinberg stated that he would support the issue of not measuring noise to the east as long as it is clarified that there are no occupied structures to the east. There should also be a cone devised. The language should be clarified between first and second reading.**

Discussion continued.

Kent Harrison Robbins, Esq., stated that the noise should be measured "due" east.

Commissioner Garcia stated that there are several hotels south of 5<sup>th</sup> Street and did not understand why they could not make noise to the east.

Commissioner Libbin asked Commissioner Gross to separate his motions and make two different motions.

**Motion #1 – Part I**

**Motion made by Commissioner Gross restating his motion not to measure noise from due east between 8<sup>th</sup> Street and 13<sup>th</sup> Street on Ocean Drive and on Collins Avenue north, except when there is a building being affected to the east. This should not be done between 1<sup>st</sup> and 5<sup>th</sup> Streets because they are in a residential zone; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Mayor Dermer.**

**Motion #1 – Part II:**

**Motion made Commissioner Gross to have three warnings at any time in the residential zoning districts and six warnings at any time in the commercial or mixed use zoning districts;**

**seconded by Commissioner Bower.**

Discussion continued.

Vice-Mayor Steinberg asked if the six warnings would be for any time of the day or night and eliminating the pre-eleven timeframe.

Robert Middaugh, Assistant City Manager, stated that it could be simplified by eliminating one of the time categories and making the warnings any time.

Commissioner Libbin stated that if the system is "not" complaint driven the code officer gives a verbal suggestion to lower the noise. If it is complied with there is no warning or violation. If it is a complaint driven call then the warning/violation process should be used. He asked if this was acceptable.

Commissioner Gross stated that he is okay with Commissioner Libbin's suggestion as long as it is legally enforceable.

Murray Dubbin, City Attorney, asked what happens if there is not a complaint; however, three (3) warnings have already been issued.

Commissioner Libbin stated that then the operator has not been compliant and a warning is issued.

**Motion made by Commissioner Bower to give direction to the Administration that if the noise is "not" complaint driven then give direction to the code officers to issue a courtesy verbal warning and if they comply with the verbal warning there is no warning and no violation. If they do not comply then the warning/violation process begins; seconded by Commissioner Libbin; Voice vote: 6-0; Absent: Mayor Dermer. Robert Middaugh to handle.**

Commissioner Cruz stated that Key Biscayne has a complaint driven system and requested that between first and second reading to find out how they are handling the issue of noise. **Robert Middaugh to handle.**

**Motion made by Commissioner Gross that for residential zones or where there is the ban on new outdoor entertainment that there be three (3) warnings then the schedule on the fines begins and in the other zones there should be six (6) warnings; seconded by Commissioner Bower with the clarification that the special event permit process remains in place.**

Discussion continued.

Commissioner Libbin stated that he would feel more comfortable with going with the warning schedule approved by the residents of six in the residential zoning districts and twelve in the commercial zoning districts.

Vice-Mayor Steinberg stated that he cannot support this motion, it is not proper to have different treatment for different areas. He also stated that the issue of, if a warning is issued on one day and a violation is also issued the same day, but they have not exhausted their warnings, he believes the consensus is that the any remaining warnings could be used on other days.

Commissioner Cruz stated that he understand that once a violation is issued the warning cycle is over and the violation cycle begins. The consensus was that the warning stays and the violation cycle begin.

Vice-Mayor Steinberg explained that for example an operator receives a warning, an hour later the

inspectors come back and the operator has not complied, the inspector will issue a violation. If a month later, the inspector comes back and the operator has not exhausted all the warnings, the inspector will issue a warning. If the operation does not comply and a citation is issued, the citation would be a second violation. In other words the violation count would not be reset.

Commissioner Bower restated her understanding of the above.

Commissioner Gross suggested separating the items and made a motion; three (3) warnings in a residential zone; seconded by Commissioner Bower; Ballot vote: 3-4; Opposed: Vice-Mayor Steinberg, and Commissioners Cruz, Garcia, and Libbin. The motion failed.

Motion made by Commissioner Bower to have three warnings across the board on all zonings. No second offered and the discussion continued.

Motion made by Commissioner Libbin to support what the residents approved which is twelve (12) warnings. No second offered and the discussion continued.

**Motion made by Commissioner Cruz for six warnings for both zoning districts; seconded by Commissioner Bower; Voice vote 7-0.**

Jorge Gonzalez, City Manager, clarified that the courtesy warnings are issued only when there is not a complaint. If there is a complaint there will not be a courtesy warning.

Commissioner Gross stated that to hire an engineer to wipe the slate clean is unreasonable and creates a loophole.

Commissioner Libbin stated that they should have the opportunity of the engineer only once. He agreed that to do this every year is a loophole, but everyone should be given one opportunity.

**Motion made by Commissioner Gross to strike the engineer from the ordinance between first and second reading; seconded by Commissioner Bower; Voice vote: 4-3; Opposed: Vice-Mayor Steinberg and Commissioners Garcia and Libbin.**

Commissioner Cruz stated that he voted for this but between first and second reading to look into this issue.

Vice-Mayor Steinberg stated that it has been stricken and there maybe a legal issue trying to put it back into the ordinance.

Jorge Gonzalez, City Manager, stated that he applauds the Commission for getting to a consensus and recognized Robert Middaugh, Assistant City Manager, for trying to bring the different positions together. He also stated that he did an excellent job.

Murray Dubbin, City Attorney, also recognized the efforts of Debbie Turner, First Assistant City Attorney.

**Handout or Reference Materials:**

1. Ballot vote
2. Letter sent via Email from David Kelsey, South Beach Hotel and Restaurant Association, to Robert Parcher, City Clerk, dated December 8<sup>th</sup>, 2005, re: Questions Regarding Noise Ordinance Vote (1<sup>st</sup> Reading – Warnings)
3. Addendum to Item No. R5C
4. Remarks of David Kelsey, South Beach Hotel and Restaurant Association, to the Miami Beach City Commission, dated December 7<sup>th</sup>, 2005 re: Agenda Item #R5C – Proposed Noise Ordinance.
5. Analysis by Frank Del Vecchio, dated December 7<sup>th</sup>, 2005 re: Noise Ordinance Balances Business Needs and Residential Protections



6. From the Preservation of Ocean Drive and The Cabaret District to the Miami Beach City Commission, re: noise, dated December 7<sup>th</sup>, 2005.
7. Letter from Herbert M. Frank, President of the Board, Belle Isle Residents Association, to the Commissioners of the City of Miami Beach, dated December 7<sup>th</sup>, 2005, re: noise ordinance guidelines.

**7:56:47 p.m.**

Supplemental Material: R5D – Ordinance

R5D Development Regulations For Single-Family Lots Abutting A GC-Golf Course District  
An Ordinance Amending The Land Development Regulations Of The City, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 2, "RS-1, RS-2, RS-3, RS-4 Single-Family Residential Districts," By Creating Section 142-109, "Development Regulations For Single-Family Lots Abutting A GC Golf Course District," Providing For Legal, Non-Conforming Status For Existing Structures, Rear Setbacks And Encroachments Into Easement Areas; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading**  
(Planning Department)  
(Deferred from July 6, 2005)

**ACTION: Item continued to March 8, 2006 at 5:01 p.m.** Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Frank Otero, Vice-Chair of the Alton Road Homeowners Association, introduced himself.  
Bruce Reich, past President of La Gorce and Pine Tree Drive Homeowners Association, gave the position of the two homeowner associations.  
Sheila Joffs spoke.  
Glenn Goodman spoke.  
Debbie Goodman spoke.

Commissioner Cruz stated that since there is no hedge ordinance in the City, there is not much the City can do, only request the City Manager to ask the Country Club to keep the hedge at a manageable level.

Glenn Goodman stated that before the agreement they kept the hedge trimmed but since the agreement was signed they have stopped trimming.

Commissioner Gross requested that the Goodman's get together with the others when the criterion is developed for the un-obstructive views and theirs will be included.

Joseph Douglas spoke.

Mayor Dermer stated that the sentiment of the City Commission is very strong to do what it can to try to alleviate some of the concerns of the neighbors.

Pia Simon spoke.

Handout or Reference Materials:

1. Two color photographs of Goodman's view

**5:16:36 p.m.**

R5E DRB Scope and Exemptions

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article VI, "Design Review Procedures" By Clarifying The Scope Of Review Of The Design Review Board As It Pertains To Single Family Homes And Townhomes; Providing For Repealer, Codification, Severability And An

Effective Date. **First Reading.**

(Planning Department)

**ACTION: Ordinance approved on First Reading.** Motion made by Vice-Mayor Steinberg; seconded by Commissioner Bower; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for January 11, 2006. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

R5F Parking Pedestal Design Requirements

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 130, "Off Street Parking", Article III, "Design Standards", To Modify The Requirements For Commercial And Residential Uses In Front Of Certain Portions Of A Parking Garage; By Amending Chapter 142, "Zoning Districts And Regulations", Article II, "District Regulations", By Amending Division 3, "Residential Multifamily Districts", Subdivision II, "RM-1 Residential Multifamily Low Intensity", Section 142-156 To Modify The Requirements For New Construction To Require Residential Uses In Front Of Certain Portions Of A Parking Lot Or Pedestal; By Amending Subdivision IV, "RM-2 Residential Multifamily Medium Intensity", Subdivision V, "RM-3 Residential Multifamily High Intensity", Division 4, "CD-1 Commercial, Low Intensity District", Division 5, "CD-2 Commercial, Medium Intensity District", Division 6, "CD-3 Commercial, High Intensity District", And Division 13, "MXE Mixed Use Entertainment District", To Add New Sections Specifying Requirements For Residential Uses Or Commercial Space In Front Of Certain Portions Of A Parking Lot Or Pedestal; By Amending Division 18, "Performance Standard District", Section 142-695, To Add New Requirements For Residential Uses Or Commercial Space In Front Of Certain Portions Of A Parking Lot Or Pedestal; Providing For Repealer, Codification, Severability And An Effective Date.

**First Reading**

(Planning Department)

**ACTION: Not reached.** Lilia Cardillo to place on the January 11, 2006 Commission Agenda. Jorge Gomez to handle.

**4:32:03 p.m.**

Supplemental Material: R5G - Revised Ordinance

R5G An Ordinance Amending Ordinance No. 1605, The Unclassified Employees Salary Ordinance, By Establishing The Classifications Of Bicycle Program Coordinator, Case Worker II, Chief Building Code Compliance Officer, Chief Fire Protection Analyst, Community Information Coordinator, Emergency Management Coordinator, Environmental Resources Manager, Film & Event Production Manager, Grants And Operations Administrator, Labor Relations Director, Labor Relations Specialist, Landscape Projects Coordinator, Management Consultant, Media Assistant, Neighborhood Services Projects Administrator, Park Facility Manager, Radio Systems Administrator, Senior Management Consultant, Senior Network Administrator, Senior Systems Analyst, Senior Systems Administrator, Senior Telecommunications Specialist, Systems Administrator, Systems Analyst, Telecommunications Specialist, Traffic Engineer, Transportation Manager, Truancy Prevention Program Coordinator, Urban Forester, And Voip Network Administrator; Amending The Title And Grade Of The Classification Of Labor Relations Director And Grades Of The Classifications Of Network Administrator, Procurement Coordinator And Senior Procurement Specialist; Providing For A Repealer, Severability, Effective Date, And Codification. **First Reading.**

(Human Resources)

**ACTION: Ordinance approved on First Reading as amended.** Motion made by Vice-Mayor Steinberg; seconded by Commissioner Bower; Ballot vote: 5-1; Opposed: Commissioner Libbin; Absent: Commissioner Garcia. Second Reading and Public Hearing scheduled for January 11, 2006. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Mayra Diaz Buttacavoli to

handle.

Vice-Mayor Steinberg stated that if the 20% addition is exercised by the Administration or the Legal Department, that the City Commission be notified in writing of the action and requested this be added to the ordinance.

Commissioner Libbin asked what this process would do to the structure of the employment system for employees that are not offered this increase because they are not in these departments or in these positions.

Jorge Gonzalez, City Manager, stated that the City faces this problem everyday. The benefits of working for the City are explained. There may be certain positions where flexibility is needed.

**4:30:45 p.m.**

Supplemental Material: R5H – Ordinance

R5H An Ordinance Amending Division 2, Entitled "The Barrier-Free Environment Committee"; Amending Section 2-31 Entitled "Established; Purpose; Composition" By Changing The Committee's Name To "Disability Access Committee." **First Reading.**  
(Public Works)

**ACTION: Ordinance approved on First Reading.** Motion made by Vice-Mayor Steinberg; seconded by Commissioner Bower; Ballot vote: 6-0; Absent: Commissioner Garcia. Second Reading and Public Hearing scheduled for January 11, 2006. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Fred Beckmann to handle.

**R7 - Resolutions**

**11:16:40 a.m.**

R7A A Resolution Following A Duly Noticed Public Hearing To Hear Public Comment On Same, Approving And Authorizing The Vacation Of The Two (2) Remaining Public Alleys, Generally Located Within Block 53, Between 16th Street And Lincoln Road, And Washington And Drexel Avenues, And Containing (Collectively) Approximately 7,423 Square Feet, In Favor Of The Applicant(And Developer Of The 420 Lincoln Road Project), 420 Lincoln Road Development Group, Inc., A Florida Corporation; Waiving, By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, Pursuant To Article II, Section 82-36 Through 82-40 Of The Miami Beach City Code, Finding Such Waiver To Be In The Best Interest Of The City; Provided Further That The City's Approval Of The Aforestated Vacation Is Subject To And Contingent Upon 420 Lincoln Road Development Group, Inc.'s Satisfaction Of The Conditions Set Forth In This Resolution; Authorizing The Mayor And City Clerk To Execute Any And All Documents To Effectuate The Vacation, Including A Quitclaim Deed, Subject To Final Review Of Same By The City Attorney's Office; And, Provided Further, That The Vacation Of The Alleys, As Set Forth Herein, Shall Be Subject To A Right Of Reverter That Can Be Exercised By The City If A Full Building Permit Is Not Issued For The Project Within Three (3) Years Of The Conveyance Of The Alleys To The Developer. **10:20 a.m. Public Hearing**.

(Public Works)

**ACTION:** Public hearing held. **Resolution No. 2005-26080 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Garcia; Voice vote: 6-1; Opposed: Vice-Mayor Steinberg. Fred Beckmann to handle.

Lucia A. Dougherty, Esq. (Greenberg Traurig), spoke.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald.

**5:10:26 p.m.**

Supplemental Material: R7B – Resolution

R7B A Resolution Extending On Second Reading The Approval Of The Miami Beach Convention Center As A Venue For Conventions, Expositions Or Events Involving Adult Materials, Pursuant To The Provisions Of F.S. 847.0134. **5:01 p.m. Second Public Hearing.**

(Tourism &amp; Cultural Development)

(First Public Hearing on October 19, 2005)

**ACTION:** Public hearing held. **Resolution No. 2005-26081 adopted, Operating Requirements amended.** Motion made by Commissioner Cruz; seconded by Vice-Mayor Steinberg; Voice vote: 6-0; Absent: Commissioner Garcia. Max Sklar to handle.

Doug Tober, General Manager, SMG Convention Center, explained the item.

Joe Fontana asked if there is nudity, will alcohol be sold.

Mayor Dermer explained that there is adult material but there is no nudity.

Distribution of handbills will be prohibited and will be added to the contract. **Doug Tober to handle.**

City Clerk's note: Extended for two years, through January 14, 2008.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald.

**11:16:11 a.m.**

R7C A Resolution Setting The Dates For The Year 2006 City Commission Meetings. **Joint City Commission And Redevelopment Agency.**

(City Clerk's Office)

**ACTION: Item heard in conjunction with RDA item 3A. Resolution No. 2005-26082 adopted.** Motion made by Commissioner Bower; seconded by Vice-Mayor Steinberg. Approved without objections. Robert Parcher to handle.

**10:49:25 p.m.**

R7D A Resolution Approving The City's State Legislative Agenda For The 2006 Session Of The Florida Legislature.

(Economic Development)

**ACTION: Resolution No. 2005-26083 adopted. The State Legislature Agenda was amended.**

Motion made by Vice-Mayor Steinberg to approve the legislative Agenda as amended; seconded by Commissioner Bower; Voice vote: 7-0. Kevin Crowder to handle.

Commissioner Bower asked if both of the JCC items, the education items, and the housing items are included.

Kevin Crowder, Economic Development Division Director, responded yes the item(s) have been included.

Commissioner Libbin presented and distributed a proposal to increase work force housing. He explained that the proposal addresses two major problems; increased workforce housing and preventing people from being trapped in their own houses because of the homestead exemption. He requested that the following be added to the State Legislative Agenda; a way to transfer the homestead exemption with a small incremental addition of perhaps 25% if the individual moves to another homestead exempted property within the state of Florida; half of 25 % increase will be used to create a fund to establish additional workforce housing and the other half will go to the municipalities. This is in an effort to create work force housing in Miami Beach.

**Motion #1:**

**Motion made by Commissioner Libbin to add this project to the Legislative priorities and concurrently refer it to the Finance and Citywide Projects Committee; seconded by Commissioner Bower; no vote taken. Discussion continued.**

Vice-Mayor Steinberg suggested that Commissioner Libbin check to see what Miami-Dade County did regarding this issue.

**Amendment #1:**

**Motion made by Vice-Mayor Steinberg to have the Legal Department review the proposal before it goes to the Finance and Citywide Projects Committee.**

Amendment accepted by Commissioner Libbin. **Legal Department to handle.**

**Amended motion #1:**

Motion made by Commissioner Libbin to add this project to the Legislative priorities, to have the Legal Department review it before it is referred to the Finance and Citywide Projects Committee; seconded by Commissioner Bower; Voice vote: 7-0.

Vice-Mayor Steinberg added the following to the State Legislative Agenda: changes to the Electioneering Communication Organization (ECO) regulations to require Electioneering Communication Organizations (ECO) that are active in a municipality, county or other elections to also comply with other ordinances that may have made campaign financing more restrictive in that jurisdiction than the State law provides.

Mayor Dermer suggested that one thing to consider is to implement a spending cap and if necessary, take the issue to through the courts system.

**Motion #2:**

**Motion made by Vice-Mayor Steinberg to add to the State Legislative Agenda changes to the**

**Electioneering Communication Organization (ECO) regulations requiring that Electioneering Communication Organizations (ECO) that are active in a municipality, county or other elections to also comply with other ordinances that may have made campaign financing more restrictive in that jurisdiction than the State law provides; seconded by Mayor Dermer; Voice vote: 7-0.**

Handout or Reference Material:

1. Document titled "Solution to House Trap and Workforce Housing Shortage" submitted by Commissioner Libbin, dated December 7, 2005.

**8:28:40 p.m.**

R7E A Resolution Accepting The City Manager's Ranking Of Firms Relative To Request For Proposals (RFP) No. 36-04/05, For The Design, Deployment, And Management Of A Citywide Wireless Network (WiFi); Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm Of Wireless Facilities, Inc. (WFI) And Deploy A 1/2 Mile Pilot Network, And Should The Administration Not Be Able To Successfully Negotiate An Agreement With The Top-Ranked Firm, Authorizing The Administration To Enter Into Negotiations With The Second-Ranked Firm Of International Business Machines (IBM) Corporation; Authorizing The Mayor And City Clerk To Execute An Agreement Upon Completion Of Successful Negotiations By The Administration, In The Base Estimated Amount Of \$4,198,172, Which Includes The Cost For The Network Infrastructure, Architecture And Design Services, Installation, And Six (6) Years Of Operation, Maintenance, Project Management, Support And Warranty Services; Options In The Estimated Amount Of \$1,496,000; And 20% Contingency; And Further Appropriating Funds In The Amount Of \$3,240,847.20 From The Information And Communication Technology Fund.  
(Information Technology)

**ACTION: Item heard in conjunction with item C7BB. Resolution No. 2005-26084 adopted with the provision that the City Manager simultaneously negotiates with both companies; item referred to the Finance and Citywide Projects Committee.** Motion made by Vice-Mayor Steinberg; seconded by Commissioner Bower; Voice vote: 6-1; Opposed: Commissioner Garcia. Patricia Walker to appropriate funds. Gladys Acosta to handle. Patricia Walker to place on committee agenda.

Mayor Dermer stated that this is an idea that the Commission has been full behind. The City Manager has been very innovative on this issue which is to try to get free wireless internet service for everyone that lives in Miami Beach. Very few cities offer this service.

Jorge Gonzalez, City Manager, stated that the primary effort is to identify a wireless solution that will address the City's computer needs as we continue to stay on the leading edge of technology with respect to wireless equipment. The City is placing lap tops in the fire and police vehicles and wireless handhelds for the Building Department, Public Works Departments and the Fire Department for recording inspections. He explained that the obvious intent of the City's investment in technology is to continue to expand the capacity whether it is the multi-pay station for parking meters, or the utility meter reading, or expanding the laptops for the Police And Fire vehicles, is the ability to be in the community dealing with the public and being able to conduct business wireless is the future. He explained that this proposal satisfies the City's need as a priority and also works to extend hot zones, identified by the City, throughout the parks, business quarters, public schools and different areas where people congregate in the City. He stated that there will be disclaimers indicating that this is a free service and that the City is not responsible for any interruption or issues that may arise. The intent of this program is to make the entire City a hot-zone. This went through an RFP process. The evaluation committee unanimously selected WFI as the number one firm and recommended that WFI install a 1/2 mile test area to confirm their implementation will work.

Harold Rosen, Esq., representing Atlantic Broadband, spoke in opposition of offering free Wi-Fi services.

Mayor Dermer stated that there are two issues; 1) Mr. Rosen and the entities he is representing feel it is not a good idea, and 2) If the City decides it is a good idea, which company will do it?

Commissioner Gross explained that there is a third option which is for the City to joint venture with the company and let them pay the \$5.7 million up-front, the same as other cities have done.

Robert Switkes, representing Atlantic Broadband spoke. He referenced Florida Statute 350.064 and 350.064(2)(d).

Patricia Walker, Chief Financial Officer, spoke.

Kevin Crowder, Economic Development Division Director, spoke.

Matt Stone spoke.

Commissioner Garcia asked about the cost.

Jorge Gonzalez, City Manager, stated that the capital cost investment is about \$1.2 million. Annually, there is an operating cost of approximately \$300,000 to \$350,000. He explained that this is an ongoing expense over five years, after the third year the City is getting a technology refresh, which upgrades the system to the latest technology at that time and that cost is amortized over three years at about \$350,000 a year.

Matt Stone, Senior Partner and Co-founder of Civitium LLC, who is the City's technical consultant, spoke about the technology and addressed the issue of obsolescent. He also addressed Commissioner Gross' question regarding the Philadelphia project.

Patricia Walker, Chief Financial Officer, gave an overview of the financial aspects of the project.

Matt Stone talked about Wi-Fi speed in comparison to dialup and, indoor and outdoor access.

Commissioner Garcia asked for a color map of the hot zones. **Patricia Walker to handle.**

Vice-Mayor Steinberg spoke in favor of the project. He stated that the amount of publicity and benefits the City will receive by doing this will far exceed the expense. This service will be free. The City of Hollywood has done this in their downtown area and Gainesville, Florida, has also done this in their downtown area. The issue is competition and the current service providers don't want this competition. This is a win-win project.

Yorke Rhoads with IBM spoke.

Al Brown with WFI spoke.

Mark Needle spoke.

Mayor Dermer read a letter into the record from Phillip Cousins, member of the Evaluation Committee.

Richard Truocchio, with Ocean Wireless, spoke.

Larry Herrup, member of the Evaluation Committee, spoke.



Donna Garofano, from Atlantic Broadband, spoke.

Bobby Jenkins, President of the Fraternal Order of Police (FOP), spoke.

John Sadler with BellSouth, spoke.

Marty Evans spoke.

**Motion made by Vice-Mayor Steinberg to approve the item with the City Manager's new recommendation that the City Manager negotiate with both companies; seconded by Commissioner Bower; Voice vote: 6-1; Opposed: Commissioner Garcia.**

Commissioner Libbin requested more information and suggested scheduling a workshop. He agrees with the City Manager negotiating with both companies as long as the Administration does not commit to anything. He also would like the Legal Department to check the Patriot Act. **Legal Department to handle.**

Jorge Gonzalez, City Manager, clarified that a Workshop takes City Commission action and that he may be better served with sending the item to a Commission Committee.

Mayor Dermer suggested that it would be better if the City Manager and staff brief Commissioner Libbin on this issue.

Jorge Gonzalez, City Manager, stated that he will be glad to brief Commissioner Libbin. **Patricia Walker to handle.**

**Commissioner Garcia asked to amend the motion by requesting the Legal Department to contact the State Attorney General to find out the legalities.**

Vice-Mayor Steinberg stated that he is confident with the legal opinion given and the direction by the City's Representative, Gus Barreiro, and does not accept the amendment to his motion and added that there is no need to enter into a political process that could derail this issue.

Handout or Reference Materials:

1. Analysis for Wi-Fi vs. Current Wireless Technology
2. Memorandum to Mayor David Dermer and Members of the City Commission from Jorge M. Gonzalez, City Manager, dated December 5, 2005, re: RFP No. 36-04/05 – Design, Deployment, and Management of a Citywide Wireless Network (WiFi) – Issues Raised by Wireless Oceans.
3. Telefax from Sharon Liebman, Bellsouth Telecommunications, Inc., to Gus Lopez, Procurement Director with copy to Robert Parcher, City Clerk, dated December 6, 2005, re: RFP No. 36-04/05 for the Design, Deployment and Management of a Citywide Wireless Network (the "Wi-Fi RFP") – Resolutions R7E and C7BB on December 7 City Commission Agendas.
4. Letter from Stuart L. Blumberg, President/CEO, Hotel Association, to Mayor David and Commissioners, dated December 5<sup>th</sup>, 2005, re: Wireless Network.
5. Blue and white PowerPoint Presentation from IBM Global Services titled Miami Beach Commission Meeting Notes, dated December 7, 2005 © 2005 IBM Corporation.
6. Letter from Phillip Cousins to Mayor and Commissioners dated December 7, 2005 re: Wi-Fi initiative.
7. Blue, black and white press kit from Atlantic Broadband titled "Case Studies of Municipal-Owned Broadband: Municipality Beware"
8. Xerox copy of Neighbors article, dated Sunday, November 27, 2005, titled "Wireless service on the Beach is essential" submitted by Marty Evans, CBA Group, pages 16 & 24.
9. Color map of City of Miami Beach and Proposed Hotzone Locations - (Red pushpins – Public Schools)



**R9 - New Business and Commission Requests**

R9A Board And Committee Appointments.  
(City Clerk's Office)

**ACTION:****Barrier Free Environment Committee:**

Larry Fuller	Term expires 12/31/07	Appointed by Commissioner Libbin TL12/13
Janet Grant-Hyman	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/11

**Beach Preservation Board:**

Ana Cordero	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/10
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**Beautification Committee**

Norma Weinstein	Term expires 12/31/07	Appointed by Commissioner Gross TL 12/09
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**Budget Advisory Committee:**

Deborah Jacobson	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/13
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**Committee on the Homeless:**

Murray Kirschner	Term expires 12/31/07	Appointed by Mayor Dermer TL 12/07
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**Committee for Quality Education in Miami Beach:**

May Betancourt	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/07
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**Community Development Advisory Committee:**

Charles Burkett	Term expires 12/31/07	Appointed by Commissioner Cruz TL12/11
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**Convention Center Advisory Board:**

Randy Heimler	Term expires 12/31/07	Appointed by Mayor Dermer TL 12/12
Leon Manne	Term expires 12/31/07	Appointed by Commissioner Libbin TL 12/13
Ivor Rose	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/10

**Debarment Committee:**

Francis Trullenque	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/11
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**Fine Arts Board:**

Daniel Veitia	Term expires 12/31/07	Appointed by Commissioner Libbin TL 12/13
Sandra Vega	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/12

**Hispanic Affairs Committee:**

Sarah Resnick	Term expires 12/31/07	Appointed by Commissioner Smith TL 12/13
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**Historic Preservation Board:**

Norberto Rosenstein	Term expires 12/31/07	City Commission Appointment TL 12/11
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**Loan Review Committee:**

John Gardiner	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/12
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**Miami Beach Commission on the Status of Women:**

Laura Bruney	Term expires 12/31/06	Appointed by Commissioner Gross TL 12/13
Ana Kasdin	Term expires 12/31/07	Appointed by Commissioner Garcia TL 12/13
Barbara Montero	Term expires 12/31/06	Appointment by Commission Libbin TL 12/13
Elizabeth Schwartz	Term expires 12/31/07	Appointment by Commissioner Cruz TL 12/09

**Police Citizens Relations Committee:**

Robin Jacobs	Term expires 12/31/06	Appointed by Commissioner Libbin TL 12/13
Julian Linares	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/12

**Production Industry Council:**

Sheila Duffy-Lehman	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/09
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**Public Safety Advisory Committee:**

Julio Burgos	Term expires 12/31/07	Appointed by Commissioner Cruz TL12/12
Yair Lapciuc	Term expires 12/31/07	Appointed by Commissioner Libbin TL 12/10
Dr. Barruch Jacobs	Term expires 12/31/07	Appointed by Commissioner Garcia TL 12/11

**Safety Committee:**

Mitchel Korus	Term expires 12/31/07	Appointed by Commissioner Gross TL 12/09
Antonio Purriños	Term expires 12/31/07	Appointed by Commissioner Cruz TL 11/08
Stewart Stewart	Term expires 12/31/06	Appointed by Commissioner Garcia TL 12/13

**Transportation and Parking Committee:**

Ron Benesky	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/10
Stephen Nostrand	Term expires 12/31/07	Appointed by Commissioner Cruz TL 12/07
Amparo Vargas	Representative to the Miami Beach Chamber of Commerce	

**Youth Center Advisory Board:**

Jeff Gordon	Term expires 12/31/07	Appointed by Commissioner Garcia 12/11
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**5:17:51 p.m.**

**Appointment to the Historic Preservation Board**

Motion made by Commissioner Gross to appoint Norborto Rosenstein, Registered Architect; seconded by Commission Bower; Voice vote: 7-0. R. Parcher to notify Mr. Rosenstein. Jorge Gomez to handle.

**4:22:25 p.m.**

R9B(1) Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)

**ACTION:**

1. **Mark Johnson** spoke about the rumor that plans are in the works to build a Home Depot by the Publix on Bay Road. He stated that it seems that a number of corporations with the same family ownership have bought up the entire block. He stated that it is his understanding that the City has talked with a representative of the corporation about trading a City parcel of land for a parcel owned by this corporation. He stated that if the City property is the determining factor on this deal, then it holds more value than the appraised value. He would like to know if the City Commission and this individual are actually thinking of having a Home Depot at that location because this mega structure will have significant impact to the residents of the Beach as a whole and especially to the residents of that location.

Jorge Gonzalez, City Manager, stated that this is going through the process of a potential sale of the three lots that the City owns on Bay Road. The Planning Board held a public hearing regarding the potential sale. The Economic Development staff has been working with the potential seller and buyer to do the swap. Part of this deal, if it goes through, will potentially allow for the relocation of the Property Management staff to this location and out of Flamingo Park. He explained that anything that may happen there either on the sites the City owns or might acquire will always be subject to the zoning requirements that are there now, which are industrial use.

Mayor Dermer stated that this will have to come to the City Commission for approval. He stated that the impact level that was described to him was not the massive Home Depot but more of a hardware type of store.

2. **David Kelsey** congratulated Commissioner Libbin. He expressed concern that the City is not audio taping City meetings. He requested that all public meetings be taped.

R9B(2) Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

**ACTION: No speakers.**

**5:19:00 p.m.**

R9C Discussion Regarding Extending Alcohol Serving Hours To 7:00 a.m. On New Years Eve.  
(Requested by Commissioners Luis R. Garcia, Jr. and Matti Herrera Bower)

**ACTION:** Motion made by Commissioner Bower; seconded by Commissioner Garcia; Voice vote: 7-0, to extend the hours of operation for those clubs with existing City Occupational Licenses that have a 5:00 a.m. liquor license to 7:00 a.m. on Sunday, January 1, 2006 and to be allowed to serve alcohol, and further instructing the Administration not to enforce the 5:00 a.m. closing requirements for qualifying establishment. Any club which will remain open must notify the Police Department and Code Compliance by letter, by Thursday, December 24, 2005, and must provide additional security or off-duty police officers if the Police Department deems appropriate and must comply with the following additional criteria:

1. No pending violations
2. Do not owe the City money
3. No outdoor entertainment or open-air entertainment
4. No permission granted to violate the noise ordinance

If there are any problems during the weekend, this action may be rescinded by the City Manager.

**Items R9C and R9J heard together.**

Commissioner Garcia stated that this is something this City Commission does every year and asked if this action could be codified.

Murray Dubbin, City Attorney, stated that the action taken today is expressing the sentiment of the Commission that the ordinance not be enforced for this period of time. He recommended that an ordinance amendment be drafted. Legal Department to handle.

Handout or Reference Materials:

1. Memo dated December 15<sup>th</sup>, 2005 to Code Enforcement Director James Mazer and Police Chief Donald DeLucca-City of Miami Beach, from David Kelsey re: Extended Operating and Alcohol Serving Hours to 7 AM for New Year's Eve.

**11:24:37 a.m.**

**1:11:46 p.m.**

Supplemental Material: R9D – Additional Information

R9D A Resolution Accepting The Recommendation Of The City Manager To Resolve The Remaining Impasse Items Between The City And The Communications Workers Of America (CWA), As Recommended By The Finance And Citywide Projects Committee; Providing That In The Event That The Agreement Is Not Ratified By The Bargaining Unit Employees, Then Only The Items In The First Fiscal Year (October 1, 2003 Through September 30, 2004) Of The Proposed Package Shall Be Imposed On December 7, 2005 Per Chapter 447 Of The Florida Statutes And In The Event That The Agreement Is Ratified By The Bargaining Unit Employees, Then The Three (3) Year Agreement Will Take Effect On The Date Of The Ratification And The Benefits In That Contract Will Become Effective As Stated In The Terms Of That Package Of Benefits; Further In The Event That The Agreement Is Ratified, Authorizing The Mayor And City Clerk To Execute The Agreement.  
(Labor Relations)

**ACTION:** Discussion held. **Resolution No. 2005-26085 adopted as amended.** Motion made by Commissioner Gross; seconded by Commissioner Bower; Voice vote: 7-0. **Linda Gonzalez to handle.**

Jorge Gonzalez, City Manager, stated that the City is working through the final steps of an impasse proceeding. At the October 19, 2005 City Commission meeting the issues of wages, pension, and health were settled. There were approximately 12 or 16 items pending that were referred to the Finance and Citywide Projects Committee. The committee unanimously recommended the remaining items as reflected on the agenda package starting with page 613.

Commissioner Gross asked the City Manager to concentrate on the four items that CWA requested to discuss: 1) pay for performance, 2) temporary employees, 3) time bank, and 4) lifeguards/pool guard schedule 4/10.

**Motion made by Commissioner Bower to approve the twelve items, as recommended by the City Administration, that were unanimously approved to be imposed by the Finance and Citywide Projects Committee, with the exception of the following four items; pay for performance, temporary employees, time bank, and the lifeguard schedule 4/10; seconded by Commissioner Gross; Voice vote; 7-0.**

**Item #1**

**Pay for performance:**

Jorge Gonzalez, City Manager, explained that currently CWA has a step system; in which each step is a 3% or 4% standard increment and with a score of 50% or greater out of 100%, the employee is eligible for a full step increase. This process does not necessarily take into consideration performance or accomplishment. In the bargaining discussions, the Administration tried to institute a performance element into the evaluation process in order to align the work force with the key intended outcomes (KIO) in the strategic plans of the City. During the negotiations, the City could not achieve a pay for performance system through the normal bargaining process, which is the system that currently exists today for all other civilian employees except CWA employees. Since this could not be achieved, the Administration asked to at least increase the passing score to 75%. At the Finance and Citywide Projects Committee the discussion was that since the City is trying to make everything comparable with other civilian employee groups, then why not make the CWA pay for performance evaluation the same as it is in the GSA and AFSCME contracts and the unclassified employees. The Finance and Citywide Projects Committee approved a motion which the Administration accepted to impose a pay for performance system on part of the CWA contract. He explained that the difference between a pay for performance system and a time and grade system is that it is no longer a pass or fail system. The percentage of the increase depends on the score

received.

Commissioner Cruz asked how the issue of subjectivity is addressed in this system.

Jorge Gonzalez, City Manager, stated that subjectivity can exist in any system. He stated that the pay for performance system has existed for many other employees for over ten years. The annual evaluation is the only tool the Administration has to try to change performance and to change the behavior of an employee.

Commissioner Garcia stated that the performance evaluation system is a joke.

Linda Gonzalez, Director of Labor Relations, stated that the pay for performance evaluation system has existed for over eleven years. She explained that the actual performance evaluation system is the same exact system that is used by CWA employees today, with the same exact form and same expectations; the only difference is how score relates to merit pay. Today with a score of 50% the employee receives a 3% or 4% increase depending on the value of the step, while, on the pay for performance evaluation, using the same form that everyone else uses today including CWA, the employee's performance appraisal scores will determine the value of the employee's merit pay. With AFSCME and GSA employees need to score 90% to receive a 4% increase.

Commissioner Garcia stated that he is against the evaluation tool but not against the 75% mark.

Robert A. Sugarman, Attorney for CWA Local 3178, stated that the CWA members would likely not ratify the contract unless there was a compromise on the remaining four (4) issues. He also said that the Union was not looking for any more money. On pay for performance, Mr. Sugarman described pay for performance as a mask for cutting pay. To get 80 or 90 an employee would have to exceed expectations. He suggested that his members should be given no less than the raise that they were promised. Mr. Sugarman also said that the employees should be aligned with the strategic objectives of the City. He said that employees should not be bribed or punished. He then said that about half of the Unit was made up of Public Safety employees and that there is no pay for performance for Police and Fire.

Richard D. McKinnon, President, CWA Local 3178, stated that on the face of it, the pay for performance system is "almost un-American" not to want to go there. He continued to say that "You want to reward employees who do the best job." He suggested that it works in theory but that in real life, this does not work. He added, "Right now we have a very stable workforce. Everybody is happy." He continued, "Right now the system, it's kind of, the threshold is low, but what happens is that if you are not a satisfactory employee, the employer has a way to preventing an employee from receiving a pay raise. It's there, it's been done before, you know. So there is a system right now in place to do that."

Jorge Gonzalez, City Manager, asked Mr. McKinnon when was the last time that a CWA employee did not get a step increase.

Mr. McKinnon replied that he did not know.

Linda Gonzalez, Labor Relations Director, said that she did not know of any such instance in the last three years that negotiations have been taking place with the bargaining unit.

Mr. McKinnon continued, "But it did happen. It does happen. There is a way to do it, and if the City really wants to do it, there is a way to do it, whether they do when an employee is not performing they put them on notice and when they are coming time for their step raises, then they say you are not getting it, then you have to improve, until you improve. That's how you are going to get (your raise)."

He continued to say that, "The system is already in place. Why maybe it is because we have a lot



of, we have a highly satisfactory rating for our employees right now.”

Commissioner Cruz commended Jorge Gonzalez, City Manager, for using fiscal responsibility to be sure the City is in the right place 10 years from now and stated that the Administration has done a great job in solving the big issues of this contract. He suggested keeping the status quo for all of the remaining items for the next two years.

Commissioner Bower objected to keeping the status quo and stated that the percentage needs to be increased because 50% is very low.

Robert A. Sugarman, Attorney for CWA Local 3178, stated that if unsatisfactory employees are being graded as satisfactory it was out of CWA's control. He added that the supervisors may not know what the lifeguards are doing. He also said that the City sets the levels of satisfactory performance. This takes away subjectivity. He continued by saying that employees currently know how much they will be making after 10 to 15 years. He explained that there would also be a morale problem when one employee gets a larger raise than another even though they were working as a team.

Joseph McManus, CWA Chief Steward, explained that in public service, teamwork amongst peers is very important. He said that he feared that a pay for performance system will deteriorate teamwork. He added that in the last few years he has averaged 74 to 79 scores on his evaluation and maybe an 82 score. He said that this was good for him. He said that with the system that existed, he still gets a raise and they can continue to work as a team with his coworkers. He expressed that to him, he feels that he is doing a 95 score job. He also suggested that 95% of his colleagues are also doing a 95 job. He then said that the number does not matter as long as it is accompanied by what they were promised from the beginning.

Robert A. Sugarman, Attorney for CWA Local 3178, concluded that 50% meets expectations and that it was not a “D” grade and stated that under the City's proposal, in order to get more than the regular raise, one would have to exceed expectations. He said that with the City's proposal, an employee would have to go way above the 50 grade to get the same raise they got before.

Linda Gonzalez, Labor Relations Director, suggested that in fact, it would be a morale problem if one worker has to get a 50 to get a 4% while another needs a 90 to get a 4% raise, which would be the case since AFSCME, GSA and CWA employees are working in the same departments.

Commissioner Gross asked if it made sense for lifeguards that had been moved to the Fire Department to be on pay for performance or should there be a distinction between those that do life safety work and those that have clerical or office jobs.

Jorge Gonzalez, City Manager, stated that a compromise could be reached by keeping the lifeguards in the current step plan with a score of 75% and place all other employees in the pay for performance system.

**Motion made by Commissioner Gross to approve the City Manager's recommendation with the exception that the lifeguards will be rated the same as the uniformed personnel and stay at 50%; seconded by Commissioner Bower; Voice vote; 7-0.**

**1:11:46 p.m.**

**Issue #2**

**Issue of a detached Union President or Chief Steward vs. a time bank:**

Jorge Gonzalez, City Manager, explained that today the appropriate designees of the Union can take paid time off from work to do Union business; negotiations are done separately. Today the contract allows an unlimited use of that time. During negotiations the City proposed either a detached

President, similar to what exists in the Police Union where the entire 40 hours a week is used to do Union business, or the creation of a time bank with a set number of hours that the membership can use to do Union work and after which it cannot be done on City time. He stated that the Finance and Citywide Projects Committee recommended a detached President or his designee to do Union work and nobody else will be able to take time off from the City to do Union work and this is how the Police Union does it and the Fire Union has a Union time bank.

Richard D. McKinnon, President, CWA Local 3178, asked for the hours to be greater than the Fire time bank relative to the amount of CWA members. He suggested keeping the use of the time bank to the same Executive Board members to represent the unit.

Linda Gonzalez, Labor Relations Director, stated the City had introduced language for the time bank because there are other articles in the contract that talk about Union time that are not in the fire contract but that all those articles should be included in the 1,500 hours bank.

**Motion made by Commissioner Libbin to establish a 1,500 hours time bank for a total of four executive officers or designee similar to the Fire Union; seconded by Vice-Mayor Steinberg and Commissioner Gross; Voice vote; 7-0.**

### **Issue #3**

#### **Temporary Employees:**

Jorge Gonzalez, City Manager, stated that the Union wants to maintain the cap of 30 temporary employees and that the Finance and Citywide and Projects Committee recommended an increase to 100 temporary employees that the City can use to meet the temporary and seasonal needs of the City.

Robert A. Sugarman, Attorney for CWA Local 3178, stated that temporary employees have no Union representation and no benefits, but agreed to increase the number of temporary employees to 70. He also stated that temporary employees should not comprise more than 50% in a classification.

Richard D. McKinnon, President, CWA Local 3178, stated that the proposed language would protect the integrity of the bargaining unit.

**Motion made by Commissioner Gross to approve the item with the two protections of: 1) no more than 50% of the positions within each department but 2) with the total of 100 temporary employees; seconded by Vice-Mayor Steinberg; Voice vote: 7-0.**

Jorge Gonzalez, City Manager, stated that language will be written to reflect the will of the City Commission.

### **Item #4**

#### **Lifeguards and pool guards 4/10 schedule:**

Jorge Gonzalez, City Manager, stated there are things that do not belong in the Union contract and this is one of them. The contract today specifies for lifeguards only, what the hour shifts are going to be; it specifies a 4/10 hour days for a period of the year, and a 5/8 hours days for a different period of the year, (it does not mention pool guards and they are not included in this schedule) and this limits how the Administration manages coverage of the beach. The Administration has heard from the City Commission that they are interested in greater coverage, more lifeguard stands, or moving lifeguard stands and this contract limits the Administration's flexibility to do this. The Finance and Citywide Projects Committee's recommendation on this issue has granted the Administration the flexibility, based on the policy direction of the City Commission, by giving flexibility on scheduling the shifts. The Finance and Citywide Projects Committee recommended the City to strike this language from the

contract to allow the City Administration to make these decisions.

Robert A. Sugarman, Attorney for CWA Local 3178, stated that they do not agree with giving flexibility to the City. He added that the best lifeguard and pool guard schedule is the 4 day-10 hour schedule.

Jim Crosland, Esq., gave the City Commission the City's estimated costs for changing the lifeguard and pool guard schedule to 4 days and 10 hours per day\_year-round. The costs were \$223,575 for the lifeguards and \$250,343 for the pool guards.

Joseph McManus, CWA Chief Steward, stated that "there is nothing in the contract that addresses shifts. He (the City Manager) has the flexibility in the language in the contract now to establish whatever shift he wants." He also said that the 4/10 schedule is a benchmark for public safety that "has been accepted and there is range of movement within that. He stated that "As Mr. Sugarman pointed out, we need stability in our lives. We need the security of knowing what our schedules are, what our workdays are year in and year out. If we keep changing every two months or every three months and I am not suggesting that that will happen, but if it does happen because it is not in the protected language in the contract, it's disruptive to our lives."

Jorge Gonzalez, City Manager, stated that the City Commission needs to give him direction as to how many hours in the day there should be coverage at the beach and then give him the flexibility to figure out how to accomplish it.

Richard D. McKinnon, President, CWA Local 3178, disputed the City's cost for the year round 4/10 schedule.

**Motion made by Commissioner Bower to approve the recommendation of the Finance and Citywide Projects Committee allowing the Administration to make the decision.**

Commissioner Jerry Libbin stated that the issue of increasing the lifeguard stands should be addressed at a future date. He stated that this Commission should direct the Administration to have the beaches guarded no less than 10 hours a day. He requested that this friendly amendment be added to Commissioner Bower's motion.

**Amended motion:**

**Motion made by Commissioner Bower to approve the recommendation of the Finance and Citywide Projects Committee allowing the Administration the flexibility to make the scheduling decisions for the lifeguards; seconded by Commissioner Gross; Voice vote; 5-2; Opposed: Commissioners Cruz and Garcia.**

**Handout or Reference Material**

1. Agreement between City of Miami Beach and the Communications Workers of America (CWA) Local 3178 Period Covered October 1, 2003 to September 30, 2006
2. CWA Union Handout

R9E Discussion Regarding Unsafe Pedestrian Crosswalks On West Avenue.  
(Requested by Commissioner Matti Herrera Bower)

**ACTION:** Item withdrawn.

**4:39:34 p.m.**

R9F Discussion Regarding Establishing A Moratorium On Driving Vehicles On The Beach.  
(Requested by Commissioner Matti Herrera Bower)

**ACTION:** Item R9F was discussed in conjunction with R9G. Discussion held. See Agenda Item R9G.

Mayor Dermer explained that this item was put on the agenda pursuant to an accident that happened on the beach recently, and recalled the unfortunate fatal incident that took place some time ago in which French tourists were involved. He added that in order to prevent future accidents, and after discussion with Jorge Gonzalez, City Manager, a new type of vehicle was identified for beach use, one that gives a wider range of view but will continue to adhere to the same procedures in place. He added that there are rare occasions when a heavy truck is needed on the beach and the City Manager is trying to lessen those circumstances.

Commissioner Bower stated that this new incident is very unfortunate, but as it was explained to her the policy was not followed. She added that identifying the vehicle is a step in the right direction, but also stated that more warning signs as you come onto the beach for the tourists and residents. She would like to ban the vehicles but she understands that they are needed and it would not be feasible. She also suggested placing signs on the lifeguard stands and garbage cans. **Chief Jordan to handle.**

Jorge Gonzalez, City Manager, agreed with Commissioner Bower and explained that signs will be placed as suggested and on the garbage containers. He added that the Department of State, the Coast Guard, Miami-Dade County and private contractors also need to have vehicles on the beach. The City of Miami Beach has a solid vehicle policy that was developed after the French tourists' incident. Had the policy been adhered to this incident would not have occurred.

Notwithstanding that, to prevent future incidents, all Ocean Rescue vehicles were changed and the policy is a standard educational piece in the employees' orientation session and in the employee handbook. This policy has been communicated to the County, State and federal agencies that use the beaches as well as the concessionaires. There are special restrictions on speed, reasons for being on the beach, where and how to drive, how to use lights, avoiding distraction, using the beach as the path of last option, and lastly being mindful of what the driver is doing. He described the vehicle as being open and similar to a golf cart, with a greater span of visibility.

Commissioner Garcia stated that since 1997 the Fire Department abolished all vehicles on the sand and suggested having a zero tolerance if a vehicle is ridden on the sand without a reason.

**4:39:34 p.m.**

R9G Report And Discussion On The Uses And Types Of City Vehicles On Our Beaches.  
(Requested by Mayor David Dermer)

**ACTION:** Items R9G was discussed in conjunction with R9F. Discussion held. See discussion under item R9F.

City Clerk's Note:

Attachments:

1. Commission Memorandum: Discussion of Use and Types of Vehicles Used on our City Beaches
2. Beach Vehicle Policy
3. Office Asset Management/Beachfront Concessions Memorandum titled: Amendment to Second Amended and Restated Rules and Regulations for Beachfront Concession Operations (Rules and Regulations) Beachfront Concession Vehicles Regulations

**4:50:11 p.m.**

R9H Discussion On The Creation Of A Task Force Committee To Discuss And Recommend Condominium Reform Items.

(City Manager's Office/City Attorney's Office)

**ACTION:** See Agenda Item C6E. Discussion held.

Commissioner Garcia stated that this item came about as a result of all the different complaints received, abuses, lack of supervision, and condemnation of buildings. He explained that when the issue of fire violations at Beach High was brought to the City's attention, it was determined that the City had no authority to do fire inspections because it was the State Legislation. The City took the leadership and got the violations corrected. He envisions the City taking a leadership role in condominium reforms. He added that the City should get the residents together to identify the issues and the issues that the City cannot resolve to forward to the City's Lobbyists and the State Legislators. He stated the problem is getting worse with abuses by the associations, mismanagement, and condominium conversions. He suggested creating an ad-hoc committee for six months. He stated that he and Commissioner Bower would like to be involved in this committee.

Mayor Dermer explained that some of the issues are very pressing and asked how far the City can go on some of the issues. He stated that one important issue is the condominium conversion and losing workforce housing is a very serious problem to our tourism industry, especially since the tourism industry does not pay high wages. He stated that he understands Commissioner Garcia being interested on this issue, but the issue of workforce housing is the one he is concerned with.

Commissioner Garcia stated that he is interested in accountability. He explained that there have been some initiatives at the State Legislation to regulate and provide transparency to the condominium associations.

Mayor Dermer asked what the City's role is. He stated that State Representative Julio Robaina has been active in condominium legislation.

Murray Dubbin, City Attorney, stated that there are State regulations for management companies and the Legal Department is in the process of making a decision as to whether all regulation of conversions of condominiums are preempted by the State and whether there are some areas for local government to step in and take charge. He explained that his information will be provided to the City Commission or to any committee formed to inquire on these issues.

Commissioner Gross stated that the issue is that the Commissioners do not know who to appoint to the task force unless they know what authority the task force will have. He clarified that State laws regulate condominium managers but not management companies, and that is the issue Commissioner Garcia is raising.

Commissioner Garcia explained that he foresees providing a forum for the citizens to express their problems and the task force will identify problems. The problems would be given to the Legal Department to advise as to the legal recourses available and in some cases the only action may be to contact the State legislators.

Murray Dubbin, City Attorney, stated that based on the information they have, it appears that the State has taken over regulation of community associations management companies. He is not ready to comment as to what extent local government is pre-empted. He advised that this is a very technical subject and strongly recommends that however this task force is appointed that it be comprised of 1) neutral people, since this should not be a political judgment, and 2) people with technical knowledge of the industry and the management of the program.

Commissioner Garcia stated that he does not envision appointing anyone with technical knowledge and added that he is not advocating any particular group, but what he envisions is appointing citizens at large that will bring the problems, and if the task force needs answers, it can always contact the Ombudsman from the State, the Legal Department and/or any experts on the subject. This task force will not be creating legislation; it will identify problems and seek solutions.

Mayor Dermer requested the Legal Department to respond in writing as to the City's jurisdiction on this matter. **Legal Department to handle.**

Murray Dubbin, City Attorney, responded that the Legal Department will research and issue a legal opinion.

Vice-Mayor Steinberg stated that there should be clear parameters for this task force and it should not be the sounding board for someone that does not like their condominium president.

Mayor Dermer stated that the Co-Chairs, Commissioners Garcia and Bower, will prepare an agenda and with the help of the Legal Department set the parameters. He stated that he will be happy to make an appointment and it could be called a Commission Task Force.

Commissioner Garcia suggested two appointments per member of the Commission.

Jorge Gonzalez, City Manager, stated that a sunset provision is necessary and also specific time table parameters on the appointments.

It was agreed on a six-month sun setting provision.

Mayor Dermer announced that he will circulate a letter to receive the appointments.

Commissioner Garcia requested appointments be made by the week of Monday, December 12.

City Clerk's Note: Attached Sections:

COMPREHENSIVE EFFECT OF CONDOMINIUM ACT

LIMITED AREAS OF LOCAL REGULATION

HISTORY OF THE ISSUE

POTENTIAL AREAS OF DISCUSSION

- a) Adopt Stricter Building Code Requirements
- b) Expand Content of Municipal "Zoning Letter"
- c) Public Education and Notification
- d) Urge the Legislature to Strengthen the Condominium Act

PREEMPTION AND CONFLICT ISSUES

**10:58:24 p.m.**

R9I Discussion Of Historic Preservation Board Resolution Pertaining To The Down Zoning Of Flamingo Park Or The Reduction Of Maximum Building Heights On Ocean Front Lots.  
(Planning Department)

**ACTION:** Discussion held. Motion made by Commissioner Bower to refer this issue and include the edge (the east side to Alton Road) to the Planning Board; seconded by Commissioner Gross; Voice vote: 7-0. Jorge Gomez to place on the committee agenda and to handle.

Jorge Gomez, Planning Director, explained the item.

Mallory Kauderer spoke.

Mark Needle spoke.

**Handout and Reference Materials:**

1. Email from Denis Russ, for the Flamingo Park Neighborhood Committee, to Mayor David and Members of the City Commission dated December 7, 2005 re: Item R9I.

**Extension Of Hours:**

R9J Nightlife Industry Task Force - Extension Of Hours For Saturday, December 31, 2005 - Sunday, January 1, 2006.

(City Manager's Office)

**ACTION:** See Agenda Item R9C for discussion.

**11:11:08 p.m.**

R9K Discussion Regarding The Creation Of A Hurricane Task Force, To Examine The City's Readiness And Response To The Two Hurricanes We Experience This Year.  
(Requested by Vice-Mayor Richard L. Steinberg)

**ACTION:** Discussion held.

Vice-Mayor Steinberg volunteered to be the Liaison to this task force.

Commissioner Libbin asked if this will include the under grounding of power lines which the G.O. Bond Oversight Committee recommended.

Commissioner Garcia stated that he would also like to participate.

**11:12:37 p.m.****New Item:**

Commissioner Gross requested an LTC from the City Manager to give an update on the continuation of the hurricane clean up. **Fred Beckmann to handle.**

**New Item:**

The Commission wished Commissioner Garcia a Happy Birthday.

**12:57:53 p.m.**

R9L Discussion Regarding An Ordinance Allowing Any Establishment That Had A License To Present Full Nude Entertainment, To Sell And Service Alcohol As Long As It Was In Compliance With All Other City And State Laws.

(Requested by Commissioner Luis R. Garcia, Jr.)

**ACTION:** Discussion held. No action taken.

Commissioner Garcia stated that the reason he placed this item on the agenda is because of a letter he received. He stated there is potential for a lawsuit. He would like to discuss it and if there is agreement bring an ordinance for first reading.

Commissioner Gross stated that he does not agree with revisiting this issue.

Murray Dubbin, City Attorney, explained that right now there is no litigation pending. He advised that at this point the applicant should be treated as anybody looking for a change to the ordinance; he suggested commencing the process and referring the matter to the appropriate Committee for review. He stated that there is nothing in front of this Commission today to be able to discuss anything.

Mayor Dermer asked if the sentiment is to discuss this issue.

Vice-Mayor Steinberg asked if the City Commission is required to send the issue back to Planning Board since it came in front of the Commission and failed. He asked Gary Held, First Assistant City Attorney, if it needs to go to all the steps again.

Gary Held, First Assistant City Attorney, stated that the ordinance amendment that will be considered is in Chapter 6, which is not part of the Land Development Regulations; the referral to Planning Board that took place was just for their advice and was not required by the Code.

Commissioner Gross asked what the decision of the Planning Board was when the issue was presented.

Gary Held, First Assistant City Attorney, stated that there was a comprehensive report that was presented. He added that at the February 24, 2004 Planning Board meeting the report to the City Commission in the March 17, 2004 agenda says that after lengthy discussion a motion was made, seconded and unanimously approved to recommend to the City Commission not to adopt the ordinance as drafted and identified issues to be addressed. He explained that it is not exactly clear that it was a complete rejection, but rather that more work needed to be done on the ordinance.

Mayor Dermer stated that there is no will to proceed with this.

Gary Held, First Assistant City Attorney, stated that following City Commission's actions of March 17, 2004, not to adopt the amendments, Club Madonna and its principles sued the City in Federal Court. The City moved to dismiss and it was the decision of the Circuit Court Judge to deny the motion to dismiss. The City's posture is that at this point Club Madonna has dismissed without prejudice and they can re-file. He explained that since then things have changed and now the City would be required to establish that there are adverse secondary effects resulting from these types of establishments in a subsequent lawsuit and the results are uncertain. He stated that there are no pending lawsuits at this time.

Commissioner Garcia stated that he will abide by the sentiment of the Commission.



**12:33:26 p.m.**

R9M Discussion Regarding The Status Of The Convention Center Expansion  
(Requested by Commissioner Luis R. Garcia, Jr.)

**ACTION:** Discussion held.

Commissioner Garcia congratulated Maria Sastre in her new position as Chairwoman of The Greater Miami Convention And Visitor's Bureau (GMCVB).

Maria Sastre, Chairwoman, GMCVB, welcomed Commissioner Libbin and explained she is here to seek concurrency and approval to move forward with the project of enhancing and improving the Convention facility in Miami Beach. She personally thanked Jorge Gonzalez, City Manager, and Commissioner Garcia for their efforts and added that the GMCVB is concerned about having any delays as it relates to the facilities improvement, and in particular the ballroom facility, as well as other Convention Center facility improvements discussed.

Mayor Dermer explained that this item is not in front of the City Commission for approval and thanked her for the status on the project update.

Jorge Gonzalez, City Manager, stated that the Convention Center expansion approval was referred to the Finance and Citywide Projects Committee, and there has been no formal recommendation.

Commissioner Cruz asked if the \$55 million from Miami-Dade County for the Convention Center are tied in to the Cirque Du Soleil project, and asked clarification from the Administration.

Jorge Gonzalez, City Manager, stated that the Administration is looking at both projects and is trying to accelerate the \$55 million which is presently scheduled for 2011 or 2012. The Administration, in trying to determine if the projects should be kept together or separate, is looking for answers to questions such as if there are efficiencies of scale from a construction perspective that make sense or not, and at this point there is no definite answer. There is a meeting in January 2006 with Cirque Du Soleil partners at which time the discussion will come back to the Commission.

Commissioner Bower asked if anything is being done on the ballroom project.

Jorge Gonzalez, City Manager, stated that the City has worked on the design part of the ballroom project. At the last Finance and Citywide Projects Committee meeting, the outcome was that the City would have to choose one project or the other. Staff has been concurrently working through the business elements of Cirque Du Soleil and working with the stakeholders to determine logistically the location of the ballroom. The Administration is trying to avoid delaying either project. He added that the Administration staff met with Miami-Dade County Manager George Burgess a couple of weeks ago, and the issues from a ballroom and Cirque Du Soleil perspective were laid out and a meeting before January is being looked at.

Commissioner Garcia stated that the ballroom selection was made when the voters approved the G.O. Bond issue. Cirque Du Soleil came at the end and negotiations have been taking place for a year, almost six months before the City Commission was informed. The ballroom project has been identified and funded.

Jorge Gonzalez, City Manager, clarified that the study that identified a ballroom as a critical need for this area estimated a \$22 million ballroom, and the ballroom was never on the ballot, it was an expansion for the Convention Center. He also clarified that he takes direction from this City Commission, and the direction given was to work on concurrent paths.

Commissioner Gross stated this is an important issue and direction should come from the City

Commission. The ballroom is being delayed because of the discussion with Cirque Du Soleil. The Administration is spending time and energy based on the direction given by the Finance and Citywide Projects Committee but not necessarily from the direction given by the City Commission. He added that an investment of this size, on public land, should go to voter referendum.

Commissioner Cruz stated that from the beginning it was contemplated that this issue would go to a referendum.

Mayor Dermer suggested holding a special meeting to have a plan laid out for the Convention Center and review the future impact of that plan, and to see if this Commission decides that it is appropriate for this project to move forward. The City Commission is in agreement that if the projects are not combined, Cirque Du Soleil is not going to stand on its own without the bond money.

Commissioner Garcia requested community participation from the merchants on these projects.

William Talbert, CEO of The Greater Miami Convention and Visitors Bureau (GMCVB), spoke. He explained that the Convention Center expansion project has been on the board since 2001.

Jorge Gonzalez, City Manager, stated that the funding has not been available since 2001. He added that a Commission Workshop could be scheduled after January 2006.

Commissioner Cruz suggested that the entire Commission be involved, due to the significant dollar amount of the project and the change in the landscape of the City.

### **R10 - City Attorney Reports**

**2:07:50 p.m.**

R10A Notice Of Attorney - Client Session.

Pursuant To Section 286.011(8), Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation:

Frank Otero V. City Of Miami Beach, Florida, La Gorce Country Club, Inc. And DM Fence Corporation. The Circuit Court Of The Eleventh Judicial Circuit In And For Miami-Dade County, Florida, Case No. 05-17754 CA 04- LEESFIELD.

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission Meeting On December 7, 2005 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Strategy Related To Litigation Expenditures With Regard To The Above Referenced Litigation Matter.

The Following Individuals Will Be In Attendance: Mayor David Dermer, Members Of The City Commission: Matti H. Bower, Simon Cruz, Luis R. Garcia, Jr., Saul Gross, Jerry Libbin And Richard Steinberg; City Manager Jorge M. Gonzalez, City Attorney Murray H. Dubbin And First Assistant City Attorney Gary Held.

**ACTION: Murray Dubbin, City Attorney, read the above notice.**

**10:17:33 p.m.**

**Murray Dubbin, City Attorney, stated that the Executive Session was concluded at approximately 3:00 p.m. and adjourned.**

**Reports and Informational Items**

- A City Attorney's Status Report.

(City Attorney's Office)

**ACTION:** Written report submitted.

- B Parking Status Report.

(Parking Department)

**ACTION:** Written report submitted.

- C Status Report On The Rehabilitation Of The Existing Building And Construction Of The New Fire Station No. 2.

(Capital Improvement Projects)

**ACTION:** Written report submitted.

- D Status Report On The Construction Of Fire Station No. 4.

(Capital Improvement Projects)

**ACTION:** Written report submitted.

- E Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County, U.S. Communities, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days.

(Procurement)

**ACTION:** Written report submitted.

- F Non-City Entities Represented By City Commission:

1. Minutes From The Performing Arts Center Trust Board Meeting Of September 13, 2005 And Agenda For The November 8, 2005 Meeting.

(Requested by Commissioner Matti Herrera Bower)

**ACTION:** Written report submitted.

**End of Regular Agenda**

**Miami Beach Redevelopment Agency****City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive****December 7, 2005**

Chairman of the Board David Dermer

Member of the Board Matti Herrera Bower

Member of the Board Simon Cruz

Member of the Board Luis R. Garcia, Jr.

Absent

Member of the Board Saul Gross

Member of the Board Richard L. Steinberg

Member of the Board Jerry Libbin

Executive Director Jorge M. Gonzalez

Assistant Director Tim Hemstreet

General Counsel Murray H. Dubbin

Secretary Robert E. Parcher

**AGENDA**

## 1. ROLL CALL

## 2. OLD BUSINESS

- A Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency For The Month Of September 2005.  
(Finance Department)

**ACTION:** Written report submitted.

- B Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency For The Month Of October 2005.  
(Finance Department)

**ACTION:** Written report submitted.**11:16:11 a.m.**

## 3. NEW BUSINESS

- A A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency Setting The Dates For The Year 2006 Redevelopment Agency Meetings. **Joint City Commission And Redevelopment Agency.**  
(City Clerk's Office)

**ACTION: Item heard in conjunction with item R7C. Resolution No. 521-2005 adopted.**  
Motion made by Commissioner Bower; seconded by Vice-Mayor Steinberg. Approved without objections. Robert Parcher to handle.

**5:14:56 p.m.**

- B A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency, Florida, Adopting An Amendment To The Operating Budget For The City Center Redevelopment Area For Fiscal Year 2005/06, Adjusting The County's Share Of Tax Increment To Reflect The Reduction In Millage Adopted By The Miami-Dade County Board Of County Commissioners On September 22, 2005..  
(Economic Development)

**ACTION: Resolution No. 522-2005 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Cruz; Voice vote: 6-0; Absent: Commissioner Garcia. Tim Hemstreet to handle.

Meeting adjourned at 11:13:00 p.m.

End of RDA Agenda